

9/14/77 [3]

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THE WHITE HOUSE
WASHINGTON

September 14, 1977

Stu Eizenstat

The attached was returned in the
President's outbox today and is forwarded
to you for appropriate handling.

Rick Hutcheson

cc: Jack Watson
Tim Kraft

RE: SEC. MARSHALL'S MEMO ON ELIMINATING
MANDATORY RETIREMENT

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
		MONDALE
		COSTANZA
X		EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
	X	WATSON
		LANCE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	KING

X	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

~~SECRET~~
THE WHITE HOUSE
WASHINGTON

9/13/77

Mr. President:

Max Cleland and Jack Watson
concur with Secretary
Marshall.

Memos from Schultze, Califano,
and Blumenthal are not sub-
mitted - Stu has summarized
their views.

Rick

Electrostatic Copy Made
for Preservation Purposes

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

September 12, 1977

Stu-
a) Does this mean
that we could have
69 year old Georgia
State patrolmen? This
b) How would this
affect retirement systems?
J.C.

MEMORANDUM FOR:

THE PRESIDENT

FROM:

STU EIZENSTAT Stu

SUBJECT:

Secretary Marshall's Memo
on Eliminating Mandatory
Retirement

Attached is Secretary Marshall's memorandum recommending that the Administration support legislation pending in Congress to eliminate mandatory retirement prior to age 70 in the public and private sectors.

Issue

The House Committee on Education and Labor has reported a bill raising the upper limit of the Age Discrimination in Employment Act from age 65 to age 70.

The Senate Labor and Public Welfare Committee is expected to act on similar legislation this week. The effect of this change is to outlaw mandatory retirement prior to age 70, even if such retirement is currently mandated under pension agreements. (The bill also amends the Civil Service retirement program to eliminate the present rule which provides for mandatory retirement at age 70. The Civil Service Commission has testified on behalf of the Administration in favor of this change, in part because few employees remain in service after age 70).

This legislation is very strongly supported by senior citizen groups. The Business Roundtable and the Chamber of Commerce oppose the legislation. The AFL-CIO supports an exemption which would permit mandatory retirement before age 70 to be negotiated in a collective bargaining agreement. However, neither the business community nor labor have pressed their objections strongly.

The bill is very likely to pass if the Administration remains silent. If we oppose the measure strongly, it might be delayed this year.

Background

About half of non-agricultural private sector employees are covered by a mandatory retirement requirement. Eighty-five percent face mandatory retirement at age 65.

Most workers voluntarily retire at or before the mandatory retirement age. A Harris Poll indicated that 37% of those who retired said they were forced to do so. However, only 15% said they would like to go back to work. The Labor Department estimates that between 150,000 and 200,000 persons over age 65 want to go back to work.

During your campaign you supported the concept of eliminating mandatory retirement.

Supporting Views

Secretary Marshall makes these points in support of raising the mandatory retirement age:

- o Studies indicate that workers over age 65 can be equally or more productive than younger workers.
- o The American Medical Association has pointed out that mental and physical capabilities are not based on chronological age; also, mandatory retirement is harmful to the health of older persons.
- o The addition to the labor force by these workers would be small and would not substantially disadvantage younger workers, minorities or women.
- o The increase in discrimination complaints is not expected to be very large.

Each of these points is disputed by other agencies.

Nelson Cruikshank, the Counsellor on Aging, recognizes the problems which the legislation would cause, but on balance supports the proposal. Commerce is on record as approving the proposal. The Civil Service Commission supports the provisions affecting federal employees and suggests that perhaps the federal government can serve as a model for the private sector, while the subject is studied further.

OMB has no views.

Opposing Views

Secretary Blumenthal opposes the proposal. He believes:

(1) that an established retirement age avoids the arbitrariness of judging each employee's case individually, (2) that a change in existing law will lead to greatly increased litigation, and (3) that the change would reduce employment opportunities for the young, increase cost and inefficiency, and create great rigidity in the senior ranks of American business. The Secretary proposes as an alternative increased job programs for the elderly, improved pensions, permitting social security recipients to earn more, and more retirement counselling.

Secretary Califano also opposes the proposal. While recognizing the attractiveness of eliminating mandatory retirement, Califano is concerned about such "a profound new intervention by government into existing employment, retirement and pension relationships...." The Secretary shares many of the views of Secretary Blumenthal, and notes additionally that in employment systems with job tenure, such as in education and government, the proposal will lead to the retention of many high paid employees at the expense of younger workers. He suggests that the proposed commission on pensions be asked to study the issue.

Chairman Schultze proposes that the Administration ask Congress to delay action for a year while an interagency study of the impact is conducted. Schultze cites potentially serious economic consequences of the proposal including: an increase in the inflation rate; a reduction in promotion opportunities for minorities and women; and an increase in unemployment by 200,000 people or 0.2% increase in the unemployment rate. (Note: this is a change in how people are counted not in the real numbers of people who are without work.)

Analysis

If this issue is seen primarily as one of civil rights (as Secretary Marshall and Nelson Cruikshank see it), then an increase in the retirement age is hard to oppose.

On the other hand, if the main question is equity in the distribution of job opportunities, then a strong case can be made for retention of mandatory retirement. Analyses by both CEA staff and private corporations indicates that minorities and women will lose job and promotion opportunities if the mandatory retirement age is raised. These effects will be concentrated in higher education, government and the executive ranks of business. Moreover, the proposed change will have unclear but possibly significant impacts on public and private pension systems, collective bargaining agreements, inflation and unemployment rates.

Some of the undesirable consequences of the change might be mitigated if executives were exempted from the coverage of the act and if an agreed upon automatic retirement date could be arrived at as part of collective bargaining. Other changes might be developed after some careful study. Secretary Marshall opposes these exemptions as being contrary to the approach in other civil rights laws.

- 4 -

Recommendation

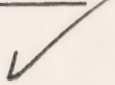
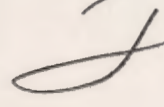
This is an extremely close call on which the evidence of potential impacts is sketchy.

Ideally it would be preferable to have more time to analyze these impacts before taking opposition on the legislation. However, if we ask Congress to wait while we study the issue, they may simply pass this highly popular initiative with no credit going to us. The vote in the House Committee in this legislation was 33-0. In any case the difficult weighing of competing arguments is not likely to be any easier next year.

On balance, I recommend support for this legislation. Most people will continue to retire at age 65 or before, so the overall impacts of the change are likely to be small. Mandatory retirement is a blunt tool for getting at the problems of entrenched bureaucracies and limited advancement opportunities. And there is no question that forced retirement is extremely frustrating and debilitating for many thousands of people.

I recommend that you discuss this issue with interested Cabinet members before taking a position. Both Secretaries Blumenthal and Califano have asked for such a meeting.

Decision

- I. _____ Support the pending legislation in Congress to eliminate mandatory retirement. (Labor, Commerce, Cruikshank and I recommend.)
- _____ Withhold support of the Congressional legislation pending a study of the consequences and alternatives. (CEA recommends.)
- _____ Oppose the pending legislation (Treasury, HEW recommend.)
- II. _____  Schedule a meeting with appropriate people on this issue.
- _____ Do not schedule a meeting on this issue.
- 

MARSHALL, MEMO

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

97 AUG 1 AM 1: 0

SEP 1 1977

MEMORANDUM TO THE PRESIDENT

FROM: Secretary of Labor *for*

SUBJECT: Pending Legislation to Raise the Upper Age Limit Under the Age Discrimination in Employment Act

In a July 26, 1977 hearing before the Labor Subcommittee of the Senate Human Resources Committee concerning legislation to amend the Age Discrimination in Employment Act of 1967 (ADEA), Senators Williams and Javits requested that the Subcommittee be given an Administration position on the issue of raising the upper age limit in the ADEA by Labor Day.

You will recall that in my July 5 memorandum to you concerning legislation to extend protection against discrimination in employment under the ADEA to individuals age 65 and older, I recommended that the upper age limit on coverage under the Act be raised from age 65 to age 70 or 72. In response to that memorandum, we received comments from several agencies concerning our recommendation that the upper age limit on coverage be raised.

This proposal was discussed at a July 15 meeting held by Mr. Frank Raines of the Domestic Council with representatives from several interested agencies. As a result of the meeting, we have prepared a research document discussing a number of issues related to the proposed modification of the upper age limit in the Act. We believe the evidence substantiates our position that the upper age limit should be raised from 65 to 70.

SEP 07 1977

Our position in support of raising the upper age limit to 70 is based on the following considerations:

- Many people age 65 and older have been forced to retire though they would prefer to continue working.
- Studies of older workers have indicated that workers over age 65 can be equally or more productive than younger workers.
- Statements by the American Medical Association have pointed out that (1) mental and physical capabilities such as judgment, ability, and physical ability are not based on chronological age, and (2) mandatory retirement of older workers often leads to physical and emotional illness and premature death.
- The labor force impact of raising the mandatory retirement age to 70 would be extremely small and would not be expected to create major dislocations in other age brackets of the labor force.
- We do not anticipate an unmanageable increase in the level of complaints under the ADEA from a modification of the upper age limit.
- Raising the upper age limit to 70 is a sufficiently modest change in the current law to protect the needs of older workers without substantially affecting the opportunities of younger workers, minorities, and women.

The bill reported by the House Education and Labor Committee contains a provision that mandatory retirement for persons age 65 to 70 could continue in effect under a collective bargaining agreement until expiration of the contract or for two years following enactment, whichever comes first. This provision is similar to one adopted with respect to pay differentials between men and women when the Equal Pay Act was passed and would be acceptable as a compromise solution. However, we would oppose any blanket exemption for collective bargaining agreements which establish a mandatory retirement age of less than 70. Such an exemption would be inconsistent with the treatment of collective bargaining agreements in other civil rights statutes.

Several agencies have suggested new research on the issues involving older workers as a condition precedent to the Administration taking a position to raise the upper age limit under the ADEA. We have no objections to new research in this area. However, there are concerns of equity here that outweigh the long-used argument of citing the need for additional study as the basis for not taking a position on, or opposing, proposed legislation. We believe that the information now available to us is sufficient to warrant the Administration's support of raising the upper age limit to 70 under the ADEA. We recognize that there might be some unforeseen problems or consequences arising if the upper age limit were eliminated entirely; we have therefore recommended only raising the upper age limit to 70.

We are attaching comments made by other agencies with respect to the question of raising the upper age limit under the ADEA. Also attached is the research paper discussed previously. Included in this paper are background materials concerning (1) productivity of individuals age 65 and over, (2) employee preferences relating to retirement, (3) the prevalence of mandatory retirement requirements under pension plans and in employer policies, (4) the anticipated labor force impact of raising the upper age limit, (5) implications for collective bargaining, employer practices, pension plans and Social Security, and (6) the impact of extending coverage on the Department of Labor's enforcement responsibilities under the ADEA.

Attachments

Platinum here

THE WHITE HOUSE
WASHINGTON

Date: September 1, 1977

MEMORANDUM

FOR ACTION:
Stu Eizenstat
Frank Moore
Jack Watson — *concur*
✓ Bert Lance *attained*
✓ Charlie Schultze — *attaining*
Landon Butler

FOR INFORMATION:
The Vice President
Jody Powell

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Sec. Marshall memo dated 9/1/77 re Pending Legislation to Raise the Upper Age Limit Under the Age Discrimination in Employment Act

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:
TIME: 12:00 NOON
DAY: Saturday
DATE: September 3, 1977

ACTION REQUESTED:
 X Your comments
Other: _____

*Frank Truman
2372*

STAFF RESPONSE:
 I concur. No comment.
Please note other comments below:

*Frank Truman - does not think it needs to go in before weekend.
Also, Col. at Hennes have expressed strong interest in
commenting on this.*

*OUTB COMM
CSA CSC
Treas H&W*

*To
*attn:
Anne Stone
NEOB - 47202*

*Stu wants to review staff & Col comments & incorporate in
1 memo*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

THE WHITE HOUSE
WASHINGTON

send out - dnl COB
~~2:00 PM~~ Tues to

~~OMB~~
&

ACTION

Treas.
Commere
CSC
ITEW

info : WATSON
MARSHALL

THE WHITE HOUSE

WASHINGTON

*give look to Eizenstat - others
just get memo*

<input checked="" type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input checked="" type="checkbox"/>	IMMEDIATE TURNAROUND

ACTION	FYI	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	MONDALE
<input type="checkbox"/>	<input type="checkbox"/>	COSTANZA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	EIZENSTAT
<input checked="" type="checkbox"/>	<input type="checkbox"/>	JORDAN
<input type="checkbox"/>	<input type="checkbox"/>	LIPSHUTZ
<input checked="" type="checkbox"/>	<input type="checkbox"/>	MOORE
<input checked="" type="checkbox"/>	<input type="checkbox"/>	POWELL
<input checked="" type="checkbox"/>	<input type="checkbox"/>	WATSON
<input checked="" type="checkbox"/>	<input type="checkbox"/>	LANCE
<input checked="" type="checkbox"/>	<input type="checkbox"/>	SCHULTZE

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER
Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day	

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input checked="" type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	KING

<input type="checkbox"/>	KRAFT
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
<input type="checkbox"/>	PETERSON
<input type="checkbox"/>	PETTIGREW
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN

THE WHITE HOUSE
WASHINGTON

Date: September 2, 1977

MEMORANDUM

FOR ACTION:

- ✓ Secretary Blumenthal
- ✓ Secretary Kreps *concur by Marshall by phone*
- ✓ Secretary Califano *COB wed*
- ✓ Chairman Campbell *attached*
- ✓ ~~Joseph Cleland~~ *VA - concur by phone*

FOR INFORMATION:

Secretary Marshall
Jack Watson

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Secretary Marshall's memo dated 9/1/77 re Pending
Legislation to Raise the Upper Age Limit Under the
Age Discrimination in Employment Act

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 5:00 PM

DAY: TUESDAY

DATE: SEPTEMBER 6, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

*brochure sent to those (✓)
on Sept 2, 1977*

*Campbell memo
exp Wed 9/7
rec'd
9-7*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

SEP 2 1977

MEMORANDUM TO RICK HUTCHESON

SUBJECT: Secretary Marshall's memorandum regarding
legislation to raise the upper age limit in
the Age Discrimination in Employment Act

FROM: James M. Frey *JM Frey*

Secretary Marshall has requested that the Administration favor legislation to raise the upper age limit in the Age Discrimination in Employment Act (ADEA) from 65 to 70. He would like to respond to a request from Senators Williams and Javits for an Administration position on the issue by Labor Day.

At the July 15 meeting referred to in Secretary Marshall's memorandum, several of the agencies, particularly Commerce, VA, CEA and HEW, raised objections and questions about the Labor Department proposal. Before the President takes a position on the issue, we believe those agencies should be afforded an opportunity to consider the Labor Department's new proposal and the research document on which it is based. We will work with the Domestic Policy staff to solicit the views of these agencies to develop an Administration position on the issue of raising the upper age in the ADEA.

P121
Q14

See
Solomon
L & P Morgan



THE WHITE HOUSE
WASHINGTON
September 8, 1977

Frank Raines

Attached are the comments
from Treasury, HEW and Frank
Moore to be included in
your summary.

Rick Hutcheson



—
THE WHITE HOUSE
WASHINGTON

Patty,

Please send copies of
comments from Treas,
H&W, & F Moore to
Frank Rainer to be
included in his
summary.

Thanks.

T. S. J.



THE SECRETARY OF THE TREASURY

WASHINGTON 20220

September 7, 1977

MEMORANDUM FOR THE PRESIDENT

Subject: Labor Department Proposal to Support Amendment
of the Age Discrimination in Employment Act
(H.R. 5383)

I must disagree with Ray Marshall on this issue. I believe very strongly that the Administration should oppose raising the legal age at which private employers and the federal government can impose mandatory retirement from existing job positions. Indeed, I feel so strongly that I would appreciate the opportunity to talk with you on the issue before your decision.

My reasons for opposing the Amendment are several:

1. Ray argues that the present age limit of 65 is arbitrary. But so also is 70, or indeed any flat limit. The only way to avoid arbitrariness is to judge each employee's case individually. Such a process would create unbelievable friction and unpleasantness between management and elderly employees. It would also be a phenomenally costly process and would create a field day for lawyers.

2. Raising the age limit to 70 would create an immediate, society-wide blow to the job prospects and upward mobility of young people. The young already suffer severe disadvantages in the job market. Youth unemployment and underemployment constitute perhaps our most serious social problem. This bill would aggravate the problem. In most other countries, young people are expected to wait patiently, for years, in lowly positions, until the older generation consents to step aside. America, by contrast, has prided itself on opening up opportunities on the basis of merit to young and old alike. This bill would largely destroy that tradition, with untold effects on the spirit and outlook of the younger generation.

3. Raising the age limit would be seriously inflationary, and would impair our competitive position in

international trade:

- (a) The bill would add enormously to the litigation costs of American business. Suing on age discrimination is already a major industry in this country. This bill would create a deluge of such suits.
- (b) The virtually certain prospect of litigation would discourage many employers from replacing incompetent or inefficient employees between the ages of 65 and 70. While many persons in this age bracket do retain their full vitality, many more do not. Medicine has extended the life span. It has not found a way to stop aging from eroding memory, mental flexibility, and physical vigor. This legislation would create enormous rigidity in the senior ranks of all American businesses. Flexibility and dynamism in promotion and personnel policy distinguish American businesses from their international rivals. We cannot safely abandon this competitive advantage.

I agree that the elderly face real problems of poverty and enforced idleness. But the proper answer is not to slow down our productive machinery, and block upward mobility, by freezing persons into senior positions, at very high pay, beyond an age where they are capable of providing maximum service and leadership. There are better answers, which the Administration should actively explore:

1. Job opportunities for the elderly: Government and business should cooperate in developing post-retirement job opportunities suitable to the talents, limitations, and preferences of the elderly. The elderly, in my judgment, have no valid claim to hold on to senior, high paying jobs beyond age 65. The elderly should, however, have an opportunity to continue working productively, though at a reduced pace and rate of pay. It will take a major and imaginative government effort to open up such opportunities in the private sector.

2. Improved pensions: Ray notes that some old people now have no choice but work if they are to keep body and soul together. But guaranteeing job tenure is not the humane answer to this. For the elderly person who wishes

to cease working, pension benefits, health benefits, and social security payments should be made sufficient to sustain a dignified life without labor.

3. Remove disincentives to work: The Social Security system now reduces or eliminates payments to those who choose to continue working. This is a cruel form of enforced idleness. The Administration should consider removing or phasing out this disincentive to work.

4. Retirement counseling: Many people are psychologically devastated by retirement, because they have not prepared themselves to find new outlets for their time, talents, and energy. The government should encourage employers to provide adequate counseling, during the last few working years, on the opportunities and problems of retirement.

Mike

W. Michael Blumenthal



THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D. C. 20201

September 7, 1977

MEMORANDUM FOR THE PRESIDENT

SUBJECT: The Administration's response to the pending legislative proposal that would raise the upper age limit under the Age Discrimination in Employment Act

Secretary Marshall's memorandum of September 1 recommends the Administration support pending legislation that would raise the upper age limit under the Age Discrimination in Employment Act (ADEA) from 65 to 70.

Philosophically, widening individual freedom of choice and opportunity on such basic human decisions as work and the leisure of retirement is congenial to me personally. And politically, as the shutout vote of 33-0 in the House Committee on Education and Labor demonstrated, the pending legislative proposal may win very broad public and congressional support.

On close examination, however, the proposal would involve a profound new intervention by government into existing employment, retirement and pension relationships between the nation's major employing institutions -- corporations, businesses, hospitals, colleges and universities -- and tens of millions of employees.

At minimum, this intervention would be broadly disruptive of existing arrangements and expectations for employers and employees alike. Because it has surfaced so quickly, and received so little analysis and study in depth, its real economic and social effects are unknown:

- o Even its advocates concede that the proposed change will add a measurable number of experienced, high-cost employees to the nation's work force in an era of above-average unemployment and inflation.

- o For the immediate future, at least, enactment of this proposal almost certainly complicates the pressing need to create more jobs and work opportunity for young people in general, and disadvantaged minorities in particular.
- o For the many sectors of the national economy that are unionized, or operate with systems of employee tenure, as in education and government, the economic and social costs of an administratively expanded labor force unaccompanied by expanded employment opportunity could be great indeed.
- o In areas of the economy where employers and managers remain free to evaluate the employee's contribution versus cost, the proposed legislative change almost certainly will generate a sharply increased volume of contested personnel actions, for the Federal government to resolve as guarantor of non-discrimination. The difficulties of fairly, effectively, and efficiently enforcing anti-discrimination laws are evident to us all after more than a decade of experience with the much clearer and more pervasive discrimination by race and sex.

In addition to having unknown, but possibly severe economic and social costs, the pending legislative proposal has unclear, but possibly quite narrow justification. I understand that 80% of the nation's business firms with mandatory retirement policies have procedures for granting exceptions when the employer and employee desire one. Put another way, less than 10% of the workers willing and physically able to continue their previous jobs are prevented from doing so by a mandatory retirement age. About 75% of the workers facing a mandatory retirement age retire at or even before that age.

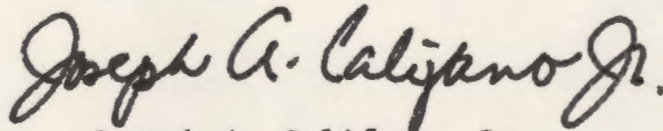
Moreover, workers on jobs covered by mandatory retirement policies:

- o earn higher wages on the average;
- o are more likely to have private pensions;

- o are qualified for significantly higher social security benefits.

I believe the important social and economic issues that deserve more careful study and clearer answers simply preclude an easy acceptance of this idea by the Administration. Your Commission on Pensions affords a timely and appropriate forum for serious study and testing of the possibly competing social and individual purposes and values that lie beneath this question.

I regret that I cannot join Secretary Marshall in supporting this idea at this time. Because I believe it would generate major, rather than trivial changes in the nation's economic and social life, I urge you to convene a meeting of the relevant members of the Cabinet and staff to talk through the issues further in advance of any decision to support the initiative pending in the Congress.

A handwritten signature in dark ink, reading "Joseph A. Califano Jr." in a cursive script.

Joseph A. Califano, Jr.

Date: September 2, 1977

MEMORANDUM

FOR ACTION:

✓ Secretary Blumenthal
✓ Secretary Kreps
✓ Secretary Califano
✓ Chairman Campbell
Joseph Cleland

FOR INFORMATION:

Secretary Marshall
Jack Watson

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Secretary Marshall's memo dated 9/1/77 re Pending
Legislation to Raise the Upper Age Limit Under the
Age Discrimination in Employment Act

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 5:00 PM

DAY: TUESDAY

DATE: SEPTEMBER 6, 1977

ACTION REQUESTED:

☒ Your comments
Other:

STAFF RESPONSE:

☐ I concur. ☐ No comment.
Please note other comments below:

at age 70
I concur, but the labor agreements impact should
be checked carefully. Also check impact of a 60 age
social security eligibility. Bill

*NO comment
SL*

*Already
seen*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required

THE WHITE HOUSE
WASHINGTON

Hold for Blumenthal +
Caligano comments -
Then send those
plus Moore comments
to Frank Rainer.

Sent to
Rainer 9/8

THE WHITE HOUSE
WASHINGTON

September 7, 1977

Frank Raines

Attached are the comments
on Sec. Marshall's memo re
Pending Legislation to Raise the
Upper Age Limit Under the Age
Discrimination in Employment
Act.

Rick Hutcheson

Date: September 1, 1977

MEMORANDUM

17

FOR ACTION:

Stu Eizenstat
Frank Moore
Jack Watson
Bert Lance
Charlie Schultze
Landon Butler

FOR INFORMATION:

The Vice President
Jody Powell

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Sec. Marshall memo dated 9/1/77 re Pending Legislation
to Raise the Upper Age Limit Under the Age Discrimination
in Employment Act

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 12:00 NOON

DAY: Saturday

DATE: September 3, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.☐ No comment.*Please note other comments below:*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

21 AUG 1 AM 11

SEP 1 1977

MEMORANDUM TO THE PRESIDENT

FROM: Secretary of Labor *for*

SUBJECT: Pending Legislation to Raise the Upper
Age Limit Under the Age Discrimination
in Employment Act

In a July 26, 1977 hearing before the Labor Subcommittee of the Senate Human Resources Committee concerning legislation to amend the Age Discrimination in Employment Act of 1967 (ADEA), Senators Williams and Javits requested that the Subcommittee be given an Administration position on the issue of raising the upper age limit in the ADEA by Labor Day.

You will recall that in my July 5 memorandum to you concerning legislation to extend protection against discrimination in employment under the ADEA to individuals age 65 and older, I recommended that the upper age limit on coverage under the Act be raised from age 65 to age 70 or 72. In response to that memorandum, we received comments from several agencies concerning our recommendation that the upper age limit on coverage be raised.

This proposal was discussed at a July 15 meeting held by Mr. Frank Raines of the Domestic Council with representatives from several interested agencies. As a result of the meeting, we have prepared a research document discussing a number of issues related to the proposed modification of the upper age limit in the Act. We believe the evidence substantiates our position that the upper age limit should be raised from 65 to 70.

Our position in support of raising the upper age limit to 70 is based on the following considerations:

- Many people age 65 and older have been forced to retire though they would prefer to continue working.
- Studies of older workers have indicated that workers over age 65 can be equally or more productive than younger workers.
- Statements by the American Medical Association have pointed out that (1) mental and physical capabilities such as judgment, ability, and physical ability are not based on chronological age, and (2) mandatory retirement of older workers often leads to physical and emotional illness and premature death.
- The labor force impact of raising the mandatory retirement age to 70 would be extremely small and would not be expected to create major dislocations in other age brackets of the labor force.
- We do not anticipate an unmanageable increase in the level of complaints under the ADEA from a modification of the upper age limit.
- Raising the upper age limit to 70 is a sufficiently modest change in the current law to protect the needs of older workers without substantially affecting the opportunities of younger workers, minorities, and women.

The bill reported by the House Education and Labor Committee contains a provision that mandatory retirement for persons age 65 to 70 could continue in effect under a collective bargaining agreement until expiration of the contract or for two years following enactment, whichever comes first. This provision is similar to one adopted with respect to pay differentials between men and women when the Equal Pay Act was passed and would be acceptable as a compromise solution. However, we would oppose any blanket exemption for collective bargaining agreements which establish a mandatory retirement age of less than 70. Such an exemption would be inconsistent with the treatment of collective bargaining agreements in other civil rights statutes.

Several agencies have suggested new research on the issues involving older workers as a condition precedent to the Administration taking a position to raise the upper age limit under the ADEA. We have no objections to new research in this area. However, there are concerns of equity here that outweigh the long-used argument of citing the need for additional study as the basis for not taking a position on, or opposing, proposed legislation. We believe that the information now available to us is sufficient to warrant the Administration's support of raising the upper age limit to 70 under the ADEA. We recognize that there might be some unforeseen problems or consequences arising if the upper age limit were eliminated entirely; we have therefore recommended only raising the upper age limit to 70.

We are attaching comments made by other agencies with respect to the question of raising the upper age limit under the ADEA. Also attached is the research paper discussed previously. Included in this paper are background materials concerning (1) productivity of individuals age 65 and over, (2) employee preferences relating to retirement, (3) the prevalence of mandatory retirement requirements under pension plans and in employer policies, (4) the anticipated labor force impact of raising the upper age limit, (5) implications for collective bargaining, employer practices, pension plans and Social Security, and (6) the impact of extending coverage on the Department of Labor's enforcement responsibilities under the ADEA.

Attachments

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

September 2, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: Charlie Schultze^{CLS}

SUBJECT: The Proposed Increase in the Minimum Mandatory
Age Limit to 70

Although the proposal to raise the minimum mandatory retirement age to 70 has some favorable aspects, there are some potentially serious economic costs associated with it. These costs include:

- o Inflationary impact. Mandatory retirement provisions exist largely because business firms find it too costly to keep the average employee beyond a certain age, especially in those firms with seniority-based payment systems. If less productive older workers had to be retained, firms would experience increased labor costs and would be forced to raise prices.
- o Opportunities for minorities. An increase in the participation of 65-69 year olds in the labor force would reduce the number of new jobs and promotional opportunities available for younger members of the labor force. This would be especially costly to minorities and women, who have only recently been entering the better jobs in the economy in large numbers. Accordingly, the decline in the availability of openings of better jobs would complicate the task of providing meaningful affirmative action programs.
- o Increase in unemployment. The increase in the aggregate labor force due to raising the mandatory retirement age to 70 could, at least for a while, add to the unemployment problem. DOL estimates that the proposal might increase the labor force

by 200 thousand. Although this is likely to be a conservative estimate, it implies that unless this was met by a corresponding increase in employment the aggregate unemployment rate would increase by 0.2 percentage point.

According to the DOL research memo accompanying Secretary Marshall's memorandum, very little is known about the magnitude of these costs. If the issue of job seniority for 65-69 year olds were as clear-cut as, say, the right of black Americans to be free of labor market discrimination, the question of costs would be irrelevant. But in this case the human rights issue is not so pervasive -- especially when it may conflict with other human rights issues.

For these reasons, I suggest the Administration propose that the Congress delay enactment of the proposed legislation for a year. You should further propose to establish an inter-agency committee (perhaps at Congressional direction) to study the potential impact of the higher minimum mandatory retirement age, and to report back to Congress after a year. Specifically, the study should focus on the impacts of such a change on:

- Worker productivity;
- The rate of inflation;
- Opportunities for occupational advancement of blacks and women; and
- The rate of unemployment, especially of youth.

An essential element of this study would be a survey of individual employing units to project the probable impact of the change in the law. The results from this survey would allow a much more careful assessment of the economic and social costs of the higher retirement age.



CHAIRMAN

UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D. C. 20415

SEP 7 1977

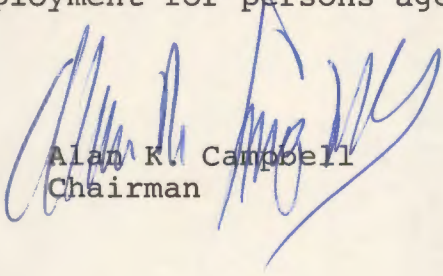
MEMORANDUM FOR RICK HUTCHESON
Staff Secretary
The White House

This is in reply to your memorandum of September 2, 1977, requesting our comments on Labor Department's September 1 memorandum to the President recommending that the Administration support legislation which would amend the Age Discrimination in Employment Act of 1967 (ADEA) to raise the upper age limit for coverage under that act from 65 to 70.

The bill referenced in the Labor Department memo is H.R. 5383. Section 4 of H.R. 5383, as reported by the House Education and Labor Committee on July 25, 1977, does propose that the upper age limit for coverage generally under the ADEA be raised from 65 to 70. However, Federal employees are exempted from this rise in the upper age limit from age 65 to 70 and section 5 of H.R. 5383 goes on to remove the upper age limit in the ADEA for Federal employees.

It is also important to note that section 5 of H.R. 5383 as reported by the House Education and Labor Committee on July 25, 1977 has been amended under a rule change approved by the House Parliamentarian. The amended language for section 5 was submitted by Representative Gladys Spellman and appeared in the Congressional Record on August 4, 1977. Section 5, as amended, would still repeal the upper age limit under the ADEA for Federal employees, but it would also repeal age 70 mandatory retirement for Federal employees with 15 years of service. No changes would be made in other existing provisions of law for mandatory retirement at lower age than 70, under the Civil Service Retirement law (Air Traffic Control and U.S. Park Police) and other Federal retirement laws (Foreign Service and CIA). The Commission plans to study whether amandatory retirement at such other ages for special occupational groups can be justified under the ADEA provisions if they were to be extended to them by a subsequent amendment of the law. The Commission supports enactment of this amended version of H.R. 5383.

We have no objection to the Administration supporting legislation which would amend the ADEA to raise the upper age limit for coverage under that act from 65 to 70. However, we recommend that any Administration position on this matter should also recognize that the upper age limit for Federal employees is to be eliminated, rather than simply raised from 65 to 70. Since the Commission has already testified before the House Post Office and Civil Service Committee on June 23, 1977, and recommended repeal of section 8335(a) of title 5, United States Code, which provides for mandatory retirement at age 70 for Federal employees with 15 years of service, we cannot consistently support retention of an upper age limit of 70 under the ADEA for Federal employees. Moreover, the arguments given by the Labor Department for raising the upper age limit under the ADEA from 65 to 70 appear to us to be equally applicable to all older persons, not just to those under age 70. We recognize, however, that further study may be desirable of the impact such a repeal would have on private employment. We, therefore, recommend that the Administration take the position that Federal employees ought to be exempted from the upper age limit under the ADEA so as to serve as a model for private industry and, hopefully, demonstrate that ADEA provisions can be successfully applied to bar age discrimination in employment for persons age 70 and over.



Alan K. Campbell
Chairman

The Upper Age Limit Under The Age Discrimination
in Employment Act

U. S. DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON

SEP 1 1977

MEMORANDUM TO THE PRESIDENT

FROM:

Secretary of Labor

Ray Marshall

SUBJECT:

Pending Legislation to Raise the Upper
Age Limit Under the Age Discrimination
in Employment Act

In a July 26, 1977 hearing before the Labor Subcommittee of the Senate Human Resources Committee concerning legislation to amend the Age Discrimination in Employment Act of 1967 (ADEA), Senators Williams and Javits requested that the Subcommittee be given an Administration position on the issue of raising the upper age limit in the ADEA by Labor Day.

You will recall that in my July 5 memorandum to you concerning legislation to extend protection against discrimination in employment under the ADEA to individuals age 65 and older, I recommended that the upper age limit on coverage under the Act be raised from age 65 to age 70 or 72. In response to that memorandum, we received comments from several agencies concerning our recommendation that the upper age limit on coverage be raised.

This proposal was discussed at a July 15 meeting held by Mr. Frank Raines of the Domestic Council with representatives from several interested agencies. As a result of the meeting, we have prepared a research document discussing a number of issues related to the proposed modification of the upper age limit in the Act. We believe the evidence substantiates our position that the upper age limit should be raised from 65 to 70.

Our position in support of raising the upper age limit to 70 is based on the following considerations:

- Many people age 65 and older have been forced to retire though they would prefer to continue working.
- Studies of older workers have indicated that workers over age 65 can be equally or more productive than younger workers.
- Statements by the American Medical Association have pointed out that (1) mental and physical capabilities such as judgment, ability, and physical ability are not based on chronological age, and (2) mandatory retirement of older workers often leads to physical and emotional illness and premature death.
- The labor force impact of raising the mandatory retirement age to 70 would be extremely small and would not be expected to create major dislocations in other age brackets of the labor force.
- We do not anticipate an unmanageable increase in the level of complaints under the ADEA from a modification of the upper age limit.
- Raising the upper age limit to 70 is a sufficiently modest change in the current law to protect the needs of older workers without substantially affecting the opportunities of younger workers, minorities, and women.

The bill reported by the House Education and Labor Committee contains a provision that mandatory retirement for persons age 65 to 70 could continue in effect under a collective bargaining agreement until expiration of the contract or for two years following enactment, whichever comes first. This provision is similar to one adopted with respect to pay differentials between men and women when the Equal Pay Act was passed and would be acceptable as a compromise solution. However, we would oppose any blanket exemption for collective bargaining agreements which establish a mandatory retirement age of less than 70. Such an exemption would be inconsistent with the treatment of collective bargaining agreements in other civil rights statutes.

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We are attaching comments made by other agencies with respect to the question of raising the upper age limit under the ADEA. Also attached is the research paper discussed previously. Included in this paper are background materials concerning (1) productivity of individuals age 65 and over, (2) employee preferences relating to retirement, (3) the prevalence of mandatory retirement requirements under pension plans and in employer policies, (4) the anticipated labor force impact of raising the upper age limit, (5) implications for collective bargaining, employer practices, pension plans and Social Security, and (6) the impact of extending coverage on the Department of Labor's enforcement responsibilities under the ADEA.

Attachments

RESEARCH
PAPER

BACKGROUND MATERIALS AND RESEARCH STUDIES
RELATING TO RAISING THE UPPER AGE LIMIT
UNDER THE AGE DISCRIMINATION IN
EMPLOYMENT ACT TO 70

Executive Summary of Background Materials and Research
Studies Relating to Raising the Upper Age Limit Under the
Age Discrimination in Employment Act to 70

The Age Discrimination in Employment Act (ADEA) was signed by the President on December 15, 1967, and went into effect on June 12, 1968. Its purpose is threefold: to promote employment of older persons based on their ability rather than age; to prohibit arbitrary age discrimination in employment; and to help employers and workers find ways of meeting problems arising from the impact of age on employment.

The ADEA prohibits most employers, employment agencies and labor organizations from discriminating in employment decisions against persons between the ages of 40 and 65 on the basis of their age. The law applies to employers having 20 or more employees, public employers, and labor organizations with 25 or more members.

One measure of the magnitude of the problem of age discrimination is the number of complaints received that allege violations of the Act. In Fiscal Year 1976, we received complaints against 5,121 establishments. For the first eight months of FY 1977, complaint inflow has maintained an annual rate of approximately 5,100. No substantial change in this rate is anticipated. We do not anticipate an unmanageable increase in the level of complaints from an increase of the upper age limit from 65 to 70.

The AMA opposes mandatory retirement in terms of the health of persons affected by it and advocates individual choice for employees in deciding when to retire. Available information generally shows evidence of declines in physiological functions at varying rates in different functions in the individual and with increasing variation among different persons within higher age ranges. Material from gerontologists indicates that common assumptions concerning people over age 65 as being less capable are questionable.

Most of the literature relevant to productivity of older workers focuses on people in the age 40 to 65 age bracket or on groups such as those 45 or 55 and over. Specific attention to workers age 65 and over is infrequent and usually incidental to discussion of a wider age range of middle-aged and older workers. Over the past three or four decades, several studies

relating to the job performance productivity of older workers have touched on workers age 65 and over. The main studies available are a University of Illinois survey from 1953-54, Department of Labor studies in 1957-61 relating to nonsupervisory office workers, production workers in the footwear and furniture industries, and mail sorters, and a survey by the New York Commission on Human Rights of employees of State agencies.

One of the most comprehensive surveys, based on data collected in a Harris poll conducted for the National Council on Aging (NCOA), indicates that 37 percent of the older public who consider themselves retired said they did not retire by choice but were forced to, and 15 to 20 percent of unemployed and retired persons age 65 and over would like to go back to work or would consider working at their old jobs or a new, suitable job.

Data from the 1973 Employer Practices Survey conducted by the Bureau of Labor Statistics indicate that approximately half of the employment in the nonagricultural private sector is covered by mandatory retirement age requirements--about two-thirds as a result of formal employer policies. Approximately 85 percent of the employees to whom mandatory retirement would apply under both employer policies and under pension plans would be required to retire at age 65. While this information is important in depicting the framework of mandatory retirement requirements under pension plans and retirement policies of employers, widespread withdrawal from the labor force before age 65 dilutes the practical importance of coverage under mandatory retirement policies.

We estimate that if mandatory retirement had been prohibited for workers under 70 years of age in 1976, the male labor force would have been larger by only one-tenth to two-tenths of a percent and the female labor force by one-tenth of a percent. This represents an extremely small labor force impact which would not be expected to create major dislocations in other age brackets of the labor force.

It does not appear that there would be any severe impact for any of the major occupational groups should mandatory retirement provisions be lifted or postponed to age 70. It is true that many professional, managerial and technical workers do wish to extend their working careers beyond a mandatory retirement age; but in this case the unemployment rates for these groups are well below the national average and the labor market should therefore be well able to absorb these experienced older workers without any major dislocations.

Raising the upper age limit to 70 is a sufficiently modest change in the current law to protect the needs of older workers without substantially affecting the opportunities of younger workers, minorities, and women. The long-term growth in the economy will continue to provide increasing job opportunities for minorities, women, and younger workers. In the context of an expanding economy, much more can be gained through comprehensive and flexible policies to promote employment opportunities for all persons, the old as well as the young.

Mandatory retirement for the most part has been a management objective, albeit one which unions have not opposed because of their perception of a surplus labor force. Unions have also pressed for early retirement as one means of increasing job opportunities and providing for upward mobility.

Testimony by the AFL-CIO indicates that only 2 percent of the production workers in the auto industry stayed on the job until the mandatory retirement age of 68. The aggregate data on labor force participation of those between 65 and 69 supports the specific industry reference. Thus, neither management nor labor would be faced with insurmountable problems based on sheer numbers in playing their respective roles as "manager" of the labor force. Similarly, neither party should have any difficulty in negotiating, or renegotiating, terms of the pension agreement in accordance with any change in the law.

Financial pressure on private plans could be alleviated. As an actuarial matter, the longer an employee works, the shorter the period retirement payments will have to be made, thus lowering the funding assumptions of the plan. Savings would of course come from the added years of accumulated interest on the fund.

Social security costs would be decreased by the number of workers between 65 and 70 who would not be forced to retire from the labor market before age 70. It is roughly estimated that the cost savings would have been between \$644 million and \$832 million in 1976. Also, workers remaining in the labor force would have added between \$232 million and \$300 million a year to social security revenues in 1976.

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- C Mandatory Retirement
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Background Materials and Research Studies Relating to
Raising the Upper Age Limit Under the Age Discrimination
in Employment Act to 70

The Age Discrimination in Employment Act

The Age Discrimination in Employment Act (ADEA) was signed by the President on December 15, 1967, and went into effect on June 12, 1968. Its purpose is threefold: to promote employment of older persons based on their ability rather than age; to prohibit arbitrary age discrimination in employment; and to help employers and workers find ways of meeting problems arising from the impact of age on employment.

The ADEA prohibits most employers, employment agencies and labor organizations from discriminating in employment decisions against persons between the ages of 40 and 65 on the basis of their age. The law applies to employers having 20 or more employees, public employers, and labor organizations with 25 or more members.

The ADEA prohibits discrimination in employment because of age in matters of hiring, job retention, compensation, and other terms, conditions, or privileges of employment. The Act also contains several exceptions to its provisions.

Section 4(f)(1) provides that the Act's prohibitions against discrimination on the basis of age do not apply where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where differentiation is based on reasonable factors other than age.

Section 4(f)(2) currently provides that it is not unlawful for an employer, employment agency or labor organization to observe the terms of a bona fide employee benefit plan such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of the Act, except that no such plan may excuse an employer's failure to hire any individual.

Section 4(f)(3) provides that it is not unlawful to discharge or otherwise discipline an individual for good cause.

Enforcement and the Impact of Raising the Upper Age Limit to 70

One measure of the magnitude of the problem of age discrimination is the number of complaints received that allege violations of the Act.

When complaints are filed by individuals, their identity is kept in strict confidence, except in certain well-defined cases when it is appropriate or necessary to name the complainant. Identification of the complainant is necessary in all cases when a notice of intent to sue under Section 7(c) of the Act is received, since the Act specifically requires the Department to attempt to keep cases out of court through informal methods of conciliation, conference, and persuasion. There were 2,673 conciliations closed in Fiscal Year 1976.

In Fiscal Year 1976, we received complaints against 5,121 establishments. For the first eight months of FY 1977, complaint inflow has maintained an annual rate of approximately 5,100. No substantial change in this rate is anticipated.

There has been a steady increase in complaints received and a corresponding decrease in noncomplaint activity over the years since the ADEA was enacted. As this has occurred, the number of cases requiring investigative activity has also increased. Further, investigations have become increasingly broader in scope (to cite one example, the number of multi-branch investigations increased from 55 in FY 1973 to 209 in FY 1976.)

We do not anticipate an unmanageable increase in the level of complaints from a modification of the upper age limit. If the limit were raised to age 70, approximately 1.2 million additional workers (out of 1.7 million workers 65-69) would be covered. Based on the 5,100 annual complaint rate for the last two years and the 25.6 million covered workers age 40 to 65, we are receiving about 200 complaints per year per million covered workers. A simple projection of this figure to the 1.2 million newly covered workers age 65 to 69 would yield a projected inflow of about 240 new complaints if the upper age limit were raised to 70.

This straight-line projection is conservative and essentially sets the lower limit on what we can expect. Our experience to date indicates that the complaint rate is not level across the 40-65 range, but increases substantially from less than 100 complaints per million covered workers 40-44 to more than 250 complaints per million covered workers over age 55. While we would anticipate that this trend would generally hold true if the upper age limit is raised to 70, we recognize that whenever coverage is extended to a new area, it is difficult to anticipate exactly what the impact will be.

Productivity of Individuals Age 65 and Over

Most of the literature relevant to productivity of older workers focuses on people in the age 40 to 65 age bracket or on groups such as those 45 or 55 and over. Specific attention to workers age 65 and over is infrequent and usually incidental to discussion of a wider age range of middle-aged and older workers. Available materials can be grouped into (a) that addressed to health or the relationship between capabilities and aging, and (b) materials relating to studies of job performance and descriptive materials from employers.

The AMA opposes mandatory retirement in terms of the health of persons affected by it and advocates individual choice for employees in deciding when to retire. Available information generally shows evidence of declines in physiological functions at varying rates in different functions in the individual and with increasing variation among different persons within higher age ranges. The extent to which changes are due to age per se is ill-defined, and the implications for work-related productivity are complicated by the ability of individuals to compensate for any diminishing capacity resulting from the aging process by greater reliance on undiminished capabilities and talents. Anecdotal material from gerontologists indicates that common assumptions concerning people over age 65 as being less capable are questionable.

Over the past three or four decades, several studies relating to the job performance productivity of older workers have touched on workers age 65 and over. The main studies available are a University of Illinois survey from 1953-54, Department of Labor studies in 1957-61 relating to nonsupervisory office workers, production workers in the footwear and furniture industries, and mail sorters, and a survey by the New York Commission on Human Rights of employees of State agencies.

Somewhat anecdotal information concerning the experience of companies employing persons age 65 and over are available from a recent Bankers Trust and Casualty Company statement before the Senate Committee on Aging and a 1975 article in Manpower magazine concerning Texas Refining Corporation.

Con Edison Company's description of its experience with raising the mandatory retirement age from 65 to 68 in 1958 indicates that such a change can result in retention of employees whose productivity in their jobs is not a problem (see Appendix A for extensive quotations from medical authorities, surveys, and employers).

Mandatory Retirement

Employee Preferences Relating to Retirement

Many ideas about older workers' sentiments have been raised, both anecdotal and based on survey data. One of the most comprehensive surveys, based on data collected in a Harris poll conducted for the National Council on Aging (NCOA), indicates that 37 percent of the older public who consider themselves retired said they did not retire by choice but were forced to, and 15 to 20 percent of unemployed and retired persons age 65 and over would like to go back to work or would consider working at their old jobs or a new, suitable job.

Such judgmental evidence, however, is always difficult to interpret due to various considerations. For example, there are reasons why respondents might try to answer such questions in an "appropriate" manner; demand as well as supply factors always influence labor market outcomes, etc.

Data on the labor force participation of older workers give some insight into this area of inquiry. Four major factors contributing to reduced labor force participation rates at higher age groups are: (a) disabilities linked to health problems, including those occasioned by serious injuries, (b) mandatory retirement practices, (c) discriminatory employment practices, and (d) workers' desires, such as for retirement facilitated by improvements in the availability of pension benefits and social security income. Attached Table 1 of Appendix B shows the participation rates of workers 50 years of age and over at intervals from 1960 through 1976. Although in each year there is a sharp break in the rates at ages 65-69--presumably reflecting the impact of mandatory retirement practices and availability of fully accrued retirement benefits--the declines for all age groups are remarkable (see Appendix B).

Pension Plan Treatment and Employer Practices

Data relating to the prevalence of mandatory retirement under pension plans and formal employer policies are available from the 1973 Employer Practices Survey conducted by BLS for the Employment Standards Administration and a BLS analysis of mandatory retirement provisions in pension plans as of 1974.

Data from the Employer Practices Survey indicate that approximately half of employment in the nonagricultural private sector is covered by mandatory retirement age requirements--about two-thirds as a result of requirements under pension plans and about one-third as a result of formal employer policies. Approximately

85 percent of the employees to whom mandatory retirement would apply under both employer policies and under pension plans would be required to retire at age 65.

Before discussing pension plan provisions in further detail, it is important to distinguish the two types of provisions which BLS describes as "mandatory retirement provisions" in their analysis of pension plan provisions: (1) compulsory retirement provisions, under which an employer, at his option, can force an employee to retire at a specified age, and (2) automatic retirement provisions, which specify an age beyond which the employer may not retain the employee. BLS found that compulsory provisions are roughly twice as prevalent as automatic provisions. Over 90 percent of employees are covered by compulsory retirement provisions which specify age 65 as the applicable standard. Under automatic retirement provisions, the most commonly applicable age is 68, but ages 65 and 70 are also common.

The BLS analysis of private pension plans in 1974 also made preliminary findings with respect to forced early retirement provisions--provisions that allow retirement at the employer's request before normal retirement age if certain minimum age and service requirements are met. These findings indicate that (1) plans in only a few industries provided for forced early retirement, including communications and public utilities for long-term employment of 25 to 30 years and automobile and farm equipment manufacturing for short-term workers with service of 10 years or less; and (2) forced early retirement provisions were more frequently found in negotiated than in nonnegotiated plans.

While this information is important in depicting the framework of mandatory retirement requirements under pension plans and retirement policies of employers, widespread withdrawal from the labor force before age 65 dilutes the practical importance of coverage under mandatory retirement policies. It must also be recognized that relatively little research has been specifically focused directly on involuntary retirement in the broad sense and ambiguities in the definition of "retirement" and "mandatory retirement" have hardly been dealt with in the research bearing on this issue.

Materials in other portions of this paper reflect information concerning the prevalence of mandatory retirement which can be inferred from labor force participation rates and survey responses of persons establishing eligibility for retired worker benefits under the social security program and opinion poll participants who consider themselves retired (see materials on mandatory retirement in Appendix C).

Anticipated Labor Force Impact of Raising the Upper Age Limit in the ADEA from Age 65 to 70

Two methods have been used to estimate the labor force impact of raising the upper age limit in the Act to age 70. The estimates are designed to identify three groups of dissatisfied older workers who would gain ADEA protection between age 65 and 70: (a) persons out of the labor force who would seek work, (b) those who are unemployed due to mandatory retirement on the basis of age, and (c) those forced to work part-time rather than full-time. The first method relies on the responses of persons qualifying for social security retired-worker benefits surveyed in a Social Security Administration Survey of Newly Entitled Beneficiaries (SNEB). The second method is based on Current Population Survey (CPS) data.

The total number of dissatisfied older persons (those not in the labor force, unemployed, or working part-time) using the SNEB method amounts to 167,000 men and 41,000 women. The CPS method, on the other hand, produces only 116,000 men and 45,000 women. This implies a range of between 150,000 and 200,000 older workers desiring jobs.

In 1976, if mandatory retirement were prohibited for workers under 70 years of age, the male labor force would have been larger by only one-tenth to two-tenths of a percent and the female labor force by one-tenth of a percent. This represents an extremely small labor force impact which would not be expected to create major dislocations in other age brackets of the labor force (see Appendix D for more detailed methodology).

The Effect of Raising the Upper Age Limit, by Occupation and Industry

Analysis of the percentages of workers in occupational and industrial groupings by age and sex helps to ascertain which industries and occupations have relatively higher retirement rates. Based on 1976 data, the mining, construction, manufacturing, transportation, public utilities and public administration industries all show relatively smaller proportions of the workforce in the older age groups. These are essentially the same industries in which mandatory retirement provisions are most prevalent.

The potential impact of postponing mandatory retirement on various labor markets can be investigated to some extent by looking at data on unemployment by industry. The 1976 unemployment rates for transportation and public utilities, and finance and insurance were 4.7 and 4.4 percent, respectively, far lower than the all industry rate of 7.7 percent (see Table 8 in Appendix E).

The 1976 unemployment rate in manufacturing at 7.9 percent was just above the all industry rate. Thus it might be concluded that this sector might have the most difficulty should mandatory retirement be delayed to age 70. A quick calculation, however, shows that the inclusion of older men now out of the labor force likely to work in manufacturing would only expand the male manufacturing labor force by three-tenths to one-half of a percent (0.3% to 0.5%). 1/

A similar analysis can be made of the occupational distribution of older workers. For men, the percentages of laborers, service workers, clerical workers and sales workers all rose gradually by age (see Table 7 in Appendix E). The drop in the relative distribution of craft workers and operatives, however, was most striking. Craft workers made up 20.4% of the 60 to 64 year olds but only 11.4% of those over 65.

However, it does not appear that there would be any severe impact for any of the major occupational groups should mandatory retirement provisions be lifted or postponed to age 70. Of the major occupational groups, the skilled and semi-skilled blue collar workers currently have the smallest proportion of workers over age 65. While it is true that these occupations are frequently subject to mandatory retirement, it is also true that blue collar workers have been leading the collective bargaining effort to achieve improved benefits for early retirement. In fact, the entire emphasis among these groups has been to gain adequate retirement income at earlier ages and after fewer years of service.

Finally, it does not appear that there will be any severe labor market impact for professional, managerial and technical workers. It is true that many workers in this category often do wish to extend their working careers beyond a mandatory retirement age; but in this case the unemployment rates for these groups are well below the national average and the labor market should therefore be well able to absorb these experienced older workers without any major dislocations (see Appendix E).

Effects on Employment of Other Workers: Youths, Blacks, Women

Raising the upper age limit to 70 is a sufficiently modest change in the current law to protect the needs of older workers without substantially affecting the opportunities of younger workers, minorities, and women.

1/ This calculation was made by allocating to manufacturing 55.6% of all older workers (over 65) out of the labor force who desired to work. The percentage is based on that fraction of the difference in employment between 60-64 year olds and over 65 year olds stemming from the manufacturing sector.

The long-term growth in the economy will continue to provide increasing job opportunities for minorities, women, and younger workers. In the context of an expanding economy, much more can be gained through comprehensive and flexible policies to promote employment opportunities for all persons, the old as well as the young.

Since November 1976, there has been an increase in the Nation's workforce of three million, the number of new jobs that have been created. The Administration's stimulus package and the recently enacted Youth Employment and Demonstration Projects Act of 1977 represent the best way to go about lowering unemployment. These programs address the employment problems without necessitating the exclusion of workers of any one group to make room for others.

Adjustments Required by Collective Bargaining and Employer Practices

One can only speculate on the collective bargaining problems faced by unions and management in raising the retirement "cap" from the present 65 to age 70.

The Chamber of Commerce claims that the elimination of mandatory retirement will make employers reluctant to improve plans because of the unpredictable nature of future costs, or that they will be unwilling to provide other fringe benefits. The Chamber also posits the possibility of increased pension plan terminations by small plans.

The AFL-CIO asks for exemptions from the change in the age standard for pension plans negotiated by unions and ties the argument to the potential adverse employment effects on younger workers of raising the "cap."

Neither group addresses the ability (or inability) of the collective bargaining system to adapt to a new set of circumstances. However, discussions with experts in the field of collective bargaining do not surface any unique problems which could not be worked out during the negotiating process.

Mandatory retirement for the most part has been a management objective, albeit one which unions have not opposed because of their perception of a surplus labor force. Unions have also pressed for early retirement as one means of increasing job opportunities and providing for upward mobility.

An example of this is provided by the Amalgamated Meat Cutters and Butcher Workmen of North America, which is officially opposed to any type of forced retirement. Despite the official position, however, the major processors demanded, and got, a mandatory retirement age of 65 in the last contract.

The typical union demand in negotiations concerns higher benefit levels (plus early retirement) in response to management concerns over efficiency and predictability in the operation of the pension system.

Andrew Biemiller, in testifying for the AFL-CIO, stated that only 2 percent of the production workers in the auto industry stayed on the job until the mandatory retirement age of 68. The aggregate data on labor force participation of those between 65 and 69 supports the specific industry reference. Thus, neither management nor labor would be faced with insurmountable problems based on sheer numbers in playing their respective roles as "manager" of the labor force.

Similarly, neither party should have any difficulty in negotiating, or renegotiating, terms of the pension agreement in accordance with any change in the law. There may be some charges involved in recosting the agreement, but that should be a one-time cost over which there should be no basic disagreement as to the conclusions reached by the actuaries and managers of the funds.

If, as the Chamber suggests, management costs are increased because of a larger number of older workers, that fact would have to be faced at the bargaining table. Conversely, if substantial savings are made by a pension fund through more years of contributions in behalf of the typical employee and fewer years of payments to the typical retiree, the unions might demand an increase in benefit levels. This goal might be sought for itself alone and as an inducement for members not to work until the final year. Also, there might be some increase in the intergenerational tension within union ranks, which has been remarked upon in other contexts over the past few years.

Several hypothetical situations could be developed along the above lines, but in each case trade-offs--common to bargaining--can be worked out. In any event, labor force participation rates of workers over 65 (contained elsewhere in this paper) point to the possible need for only minor changes in contracts and pension plans.

Financial Impact on Private Pension Plans and on Social Security

Private Pension Plans

Financial pressure on private plans could be alleviated. Requiring an employer to permit a qualified employee to work until the Act's upper age limit, regardless of the pension plan's "normal retirement age," would result in cost savings to plans rather than increases.

As an actuarial matter, the longer an employee works, the shorter the period retirement payments will have to be made, thus lowering the funding assumptions of the plan. Savings would of course come from the added years of accumulated interest on the fund. Savings would also stem from the fact that a plan need not provide for further accrual of benefits after the participant has reached the plan's "normal retirement age" and thus the added years of service do not increase the ultimate retirement benefit or the cost of providing it. Of course, some (or possibly all) of these savings could be reflected in a future higher benefit level.

Social Security

Social security costs would be decreased by the number of workers between 65 and 70 who would not be forced to retire from the labor market before age 70. These savings would depend on the wage history of the individual according to the formula used by the Social Security Administration to calculate benefits. Benefit calculations are complicated further by the marital status of the recipient. Nevertheless, if a very rough and approximate maximum benefit of \$400 is allocated to each of the dissatisfied workers estimated previously (see page 6), then the cost savings would have been between \$644 million and \$832 million in 1976. If these workers remained in the labor force and paid the maximum Social Security tax, they would have added between \$232 million and \$300 million dollars a year to social security revenues in 1976.

All in all these sums do not really represent great savings to the economy. OASDI receipts were \$71 billion in 1976 and disbursements \$74 billion. Thus, receipts would increase by at most four-tenths of a percent and disbursements decrease by about 1 percent.

APP. A

Appendix A

Productivity of Individuals Age 65 and Over

Part 1 - Health and Capacities Beyond Age 65

In 1971 the House of Delegates of the American Medical Association adopted a policy state declaring

*** compulsory retirement and artificial barriers to employment based on age can be prime factors in the deterioration of health ***"

Subsequently, the American Medical Association filed Amicus Curiae briefs in several cases involving the issue of discrimination on the basis of age. Following are quotations from the AMA position submitted in such cases.

"It is the position of the American Medical Association that the Nation's social policy for the aging should insure that the older worker has the opportunity to continue in productive employment as long as he wishes and is able to maintain a satisfactory level of efficiency. Such opportunities will enable many more older people to look forward to more years of independence, dignity, and usefulness. The American Medical Association believes that the older worker who is able to continue working should have a choice about when, or even if he wishes to retire.

* * * * *

"Arbitrary retirement policies coupled with the denial of work opportunity seriously threaten the health of the individual concerned. Medicine sees in mandatory retirement a direct threat to the health and life expectancy of the persons affected.

* * * * *

"Chronological age has been observed to have no magic in terms of judgment, ability, and physical dexterity. Individuals may lose these qualities at age 40 or retain them past age 80.

* * * * *

"Arbitrary segregation of individuals because of arbitrarily determined chronological age is not healthy for the nation or the individual. The sudden cessation of productive work and earning power of an individual, caused by compulsory retirement, often leads to physical and emotional illness and premature death." 1/

In a recent book developed under a grant from HEW's Administration on Aging entitled Aging in American Society, the following information is presented in a chapter concerning "Physiological and Biological Changes":

"A plot of certain important physiological functions on a graph would look something like this: metabolic rate, percentage of body water, cardiac output, kidney function, and breathing capacity all reach their peak at about age 30 and decline steadily thereafter, with assorted ups and downs. However, not all of these functions decline at the same rate. Metabolic efficiency will decline only about 10 percent between ages 30 and 80; breathing capacity and kidney function will decline by half. Some functions actually improve with age. Cholesterol, the fatty substance which is thought to contribute to atherosclerosis and heart attacks, reaches its highest concentrations in the blood at about age 55 and plummets sharply thereafter. Other functions--such as the body's ability to regulate glucose levels--do not change at all with age. However, if glucose levels rise sharply, they will return to normal more slowly in an older individual. *** These patterns of age-related decline only represent averages. *** these statements describe the general direction of aging, not its universal rules. Furthermore, the relationship between physiological deterioration and human behavior is ambiguous.

"Human beings possess an often extraordinary capacity to compensate for the debilitations of age. One British research team found that elderly women in textile factories continue to perform exacting tasks with small threads, even though their eyesight is poor. These women seem to rely on pure physical dexterity and long years of experience to sustain a remarkable level of performance. The same team discovered that the actual age-related decline in strength and reaction time, while evident and annoying to older people, often has a less drastic effect than commonly believed. For example, muscular strength is greatest at age 27 and declines by only about 16 percent over the next 30 years. Coupled with depleted reserve capacity and longer recovery rates, this sapping of one's strength can certainly be troublesome and limiting. Yet the evidence suggests that most people can find ways to compensate for the deficiencies of old age until very late in life.

"In other words, aging itself is not a disease. *** Nevertheless, aging and disease are linked in a reciprocal fashion. Just as aging makes the person more vulnerable to disease, disease can hasten the process of aging. Similarly, good health slows down the process of aging."

"[A] *** characteristic loss of reserve energy and recovery capacity is caused in large part by an age-related decline in the efficiency of the cardiovascular system.

* * * * *

"Physical activity and fitness is perhaps the best-documented of all the factors that appear to produce long life. A careful study of the effects of a program of graduated but heavy exercise on a group of sedentary middle aged men found substantial improvements in the efficiency of a number of physiological functions that ordinarily decline with age. It was found that exercise brought a lower heart rate, greater pumping capacity of the heart, lower blood pressure, greater lung capacity, more efficient fat metabolism, lower cholesterol levels, and improvements in blood sugar levels. In some cases, the men experienced such unexpected changes as improvements in hearing and vision. Numerous studies have documented the positive benefits of regular physical activity on the heart and lungs. It is now clear that a carefully regulated program of jogging under medical supervision is the most effective way to rehabilitate heart muscles damaged in heart attacks. A very high level of physical fitness may even constitute insurance against heart attacks.

* * * * *

"Another promising but less certain influence on longevity is diet and nutrition. *** Perhaps of more significance is the nature of this diet. *** The fat-rich American diet is associated with both obesity and heart disease. In contrast, the low-fat diet of regions where longevity is common is associated with both a high level of fitness and a low incidence of heart disease.

"Psychological and cultural influences on a long life are the factors which are most difficult to measure with scientific precision, but they are perhaps the most compelling explanations for longevity." 2/

In concluding remarks Aging and Human Skill, a comprehensive review of research on this subject, author A.T. Welford made the following summary remarks:

"From a strictly empirical point of view the main results which occur again and again are firstly, the obvious slowing of performance that goes with age, a slowing manifested not only in sensory-motor tasks but in perception, problem-solving and other situations in which it is the mental rather than the motor component which is stressed. Secondly, there is the increasing variability between one individual and another as we go up the age scale, which means that more often than not we find a substantial number of old people performing at a level at least equal to that of the average of a group of younger subjects. *** What has not been so noticeable in previous studies is a third point, namely, that the changes of performance with age very commonly become disproportionately greater as the difficulty of the task rises, so that relatively small age differences with easy tasks may be profound with similar tasks making rather more severe demands.

"None of these tendencies is, however, regular enough from one situation to another for us to be able to regard it as implying any universal rule or law.

* * * * *

"The fact has been noted in many experiments that older people have a remarkable ability to compensate for any changes which may tend to impair their performance and show an automatic and unconscious ordering of their activity to make the best use of what capacities they have. This process of what we may call unconscious optimization is probably a feature of much if not most normal human performance. The fact that it is striking in later middle and old age indicates that whatever difficulties may be experienced at these times of life, the ability to organize behavior 'strategically' has not been lost.

* * * * *

"There is little doubt that the more thorough 'coding' in perception and in action that experience makes possible is potentially a means of offsetting the limitations we referred to earlier, and may often far

more than compensate for them. Such 'coding' and the experience that lies behind it, is, however, highly individual, and it would seem necessary, therefore, to face the task of assessing uniquely individual abilities and their changes with age. It is difficult to do this in an acceptably scientific manner, but the task would seem not to be impossible.

* * * * *

"The work in this book *** provides no dramatic suggestions for the elimination or reversal of age changes. What it does indicate, however, is that in many tasks subjects, young and old alike, are working well within their capacities and changes of capacity, even in old age, are unimportant. Perhaps more significant is the indication that where age changes do impinge upon performance some relatively trivial factor may often be limiting what can be done, so that comparatively small changes in the task could bring it within the capacities of older people.

* * * * *

"Older people who at the present time change their jobs seem seldom to take up work at a level appropriate to their past attainments, and in consequence a move in middle or old age usually leads to the wasting of skills which have been established and brought to a high level over a period of many years. Where changes of work must be made, we may expect that the acquisition of new skill would be easier if arrangements could be made for it to be acquired gradually over a substantial period of time ***." 3/

In a recent article in Industrial Gerontology reviewing knowledge relating to "Age, Intelligence and Learning," Dr. Russell F. Green presents the following observations regarding ability to learn and aging:

"The fact that verbal intelligence, defined as vocabulary, information, comprehension, and analogies, increases through about age 60 makes it clear that learning, storing, and recall of information continues and that net gains equal or exceed net losses in these areas to ages 65 to 70--approximately. Must there be a decline after that? It seems likely, but the answer is not clear in regard to when. It is obvious that

these functions do not decline in everyone at this age. Whether or not they do is partly a matter of the task and partly a matter of what one does. Decline, even in vocabulary, is associated with disuse, although this may have to approach total disuse. Use or activity does tend to be associated with I.Q., although both may be dependent on some third factor even after retirement.

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"H. Summary

"Does I.Q. decline? Probably yes, sooner or later, but much later than people had thought. When does it become critical to performance? For many people not until ages such as the 70's, 80's, or even 90's. In other words, we seem to be overendowed for most tasks we need to carry out. We can absorb a lot of physical deterioration, especially in the brain because these losses do not necessarily reduce our normal functioning range. In fact, there is reason to believe that if measurable decline appears before age 60, then some disease of or substantial injury to the central nervous system must have been incurred.

"Does ability to learn decline? Sometimes yes, but some ability to learn, that is to change as a function of experience, apparently lasts as long as the organism. Obviously, not much decline occurs before the age of 60 in anyone who has avoided injury and certain illnesses. The motivation variable, however, may become significant at age 26, but that is quite another problem. Some people continue to learn into their nineties.

"Decline is a highly individual phenomenon. Biological or physiological decline appears at very different ages and at very different rates in different body functions. Fortunately, the organs of the body are overbuilt in the sense that they can perform more than is ordinarily demanded, at least until age 65 in almost everyone, and even after that in most people. The brain in particular can withstand substantial losses before the ability to learn is lost to any significant degree, although this would depend in part on the area of the brain involved. The age associated with loss due to brain deterioration varies across at least 25 to 30 years, from perhaps age 65 to 90 or more. Let us learn to treat each individual in terms of his own merits." 4/

Albert E. Gunn, J.D., M.D., made this following observations relating to the issue of deterioration of mental functioning in testimony before the Senate Labor Subcommittee on July 27, 1977.

"Correct medical practice now dictates that when any person, irrespective of age, displays some form of deterioration in their mental abilities they should be fully investigated. An elder person can have a frontal meningioma just as easily as a young person, and the condition is as readily as correctable in either. Low pressure hydrocephalus can account for difficulties in memory and mental ability. It can be remedied. Senility itself once regarded as an obscure process has been studied more critically in recent years. Plaques have been discovered in the brain of persons diagnosed as senile which resemble those found in younger persons with dementia. The possibility exists that this is a disease which can affect persons of any age. The material found in these plaques is similar to that found in amyloid disease. All this raises the possibility that with further study senility may be found to be a disease, not a natural state." 5/

In a recent article in the Journal of the American Geriatrics Society, Dr. Gunn also observed:

"It is generally believed that the use of mental facilities in some way prevents their further deterioration. This is not based on any particular scientific proof, but it seems clear that the longer older persons apply themselves to some particular activity that affords a challenge and mental stimulation, the better off they are.

* * * * *

"The law and the popular view of mentally impaired elderly persons have not kept abreast of recent medical developments that point toward senescence not as an inexorable accompaniment of age, but as definable and sometimes correctable process." 6/

The following indication of health and continuing capabilities to carry on normal functioning well beyond age 65 was given in a February 1977 Newsweek article concerning social issues involving aging:

"With people staying healthy longer, fewer are ready to be put out to pasture at 65. The average age of persons entering nursing homes is now 80, as compared with 70 just a few years ago, says Dr. Robert N. Bulter a Gerontologist who heads the National Institute on Aging." 7/

In a recently published book entitled A Good Age, Gerontologist Dr. Alex Comfort made the following observations.

Regarding going downhill after 65:

"In the Duke University longitudinal study, 44 to 58 percent of survivors over sixty-five who returned for checkups had no detectable deterioration in physical condition, and some had improved, over periods from three to thirteen years. True, some people do suddenly get sick and decline, but this can happen in earlier life and is called illness, not aging. For all people over sixty-five, 51 percent rate their health as good, 33 percent as fair and 16 percent as "poor." About half, or possibly more than that, of any decline that is observed, is due to boredom, inactivity and the awareness that infirmity is expected."

Concerning illness after 65:

"They get fewer actual illnesses than younger people: 1:3 illnesses per person per year as against 2:1 for all ages. True, 81 percent of people over sixty-five have some chronic problem, as against 54 percent of all people below that age, but this need be nothing worse than short sight or hay fever."

Concerning institutionalization:

"The actual figure is just under 4 percent for all persons over sixty-five."

"The only thing that declines a little is speed of response; there is no change, normally, in intelligence and little in memory. Any blunting we do see in the absence of actual disease commonly results not from age but from put-downs, boredom and exasperation. About 1 percent of all people become "demented" or "senile"--less than the percentage who go insane at earlier ages."

"Most of the handicaps of oldness in our society are social, conventional and imaginary. The physical changes are trifling by comparison. Old age as we see it exists only in societies which create it by the way they classify people, and it could be abolished tomorrow by declassifying them (leaving some time to debrainwash everyone after that)." 8/

Part 2 - On the Job Productivity of Workers Age 65 and Older

The following materials address the overall issue of productivity of older workers, and indicate the overall framework of this issue:

(a) An article published by Ross H. McFarland in the Harvard Business Review entitled "The Older Worker in Industry" presented a comprehensive review of literature relating to older workers as of 1943. Included was the following material focusing on productivity:

"Productivity. Little information is available from which it is possible to determine the role of age per se in industrial output. There are surprisingly few occupations in which a substantial number of workers are employed on work of equal difficulty, the speed of which is governed by the worker himself and for which individual production records are available, such as piece-rate earnings. Furthermore, a number of fallacies tend to obscure the true meaning of the data. In the first place those older workers who are not able to keep the pace of the younger ones are often dismissed and their performance is not reflected in the data. On the other hand, the other employees who are most efficient are frequently advanced to executive and supervisory positions and their superior performance is likewise absent from the wage data. One study worthy of notation with regard to the effect of age on productivity was made by Palmer and Brownell in six New England companies. The results showed no definite relation between age and output. In a report to the United States Secretary of Labor by the Committee on Employment Problems of Older Workers (published in Labor Standards, 1939), a similar conclusion was reached. None of the records analyzed by this Committee drawn from several different classes of skilled workers, indicated a diminution in learning power with advancing years. In fact, in certain cases the productivity of older workers was higher than that of younger ones. This trend is also shown in a study by the Works Progress Administration covering 1,444 skilled workers. The average age of workers whose output was considered excellent was 47 1/2 years, while the average age of those in the inferior grade was 41. On the whole, therefore, there is little evidence that the output of older workers is less than that of younger ones.

Growing up and growing old are continuous processes, and many changes occur throughout the life span. But changes with age do not necessarily mean decline. Compensation takes place for every deviation and if certain capacities diminish others are enhanced. For example, as speed of reaction is lowered with age there occurs a compensatory increase in endurance. This fact has been revealed in many different ways. *** Also, loss of mere physical strength is normally compensated for by the increased skill and good judgement resulting from long training and experience.

"Conclusions. The physical and mental demands which various industries make on their employees differ greatly. The efficiency of the older worker must therefore be considered in terms of the requirements of specific types of work. In general older workers are economical for the following reasons: (a) they have fewer industrial accidents; (b) the labor turnover is small thereby decreasing the expense of training new employees; (c) their output is usually equal to that of younger men, and they tend to cause less spoilage and general breakage; and (d) they tend to be more stable, loyal, and responsible. They are particularly valuable in situations involving little supervision.

On the other hand, the older employee has disadvantages in comparison with the younger adult in terms of (a) greater number of days lost because of sickness, and (b) less adaptability to changes in labor assignment, and less muscular strength and agility. When these various factors are balanced against each other in any given industrial situation, the value of each worker will vary with his physiological age or fitness rather than his chronological age. In most types of work, however, accumulated experience adds more effectiveness than does maximal speed, or mere physical strength." 9/

(b) The following information concerning productivity and the older worker was reported in the Proceedings of a Temple University Conference concerning age barriers to employment:

"The problem of obtaining objective data on the question of productivity of older workers is a difficult one. *** There are a surprisingly small number of occupations in which there are a substantial number of workers employed on work of equal difficulty, the speed of which is governed by the worker and for which individual production records are kept.

A survey of the literature in the field yields varying and somewhat conflicting conclusions. It is the writer's opinion, however, that the most frequent conclusion reached in these various studies is that the rate of production on certain types of repetitive jobs begins to fall off slightly after the age thirty-five. It is difficult to determine whether the reduction in the rate of production is significantly large in these operations so as to constitute an important handicap for the older worker or whether other factors such as increasing quality of production might not more than compensate for a somewhat lower quantity of production. It is also difficult to determine what percentages of the jobs in industry are of such a nature as to maximize the handicap of the older worker.

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Messrs. Palmer and Brownell *** conducted a series of studies within 6 manufacturing plants in the New England Area. Three separate studies were conducted among 172 textile weavers, 127 spinners and 147 workers in a non-ferrous metal company. In regard to the quantity of production, they reported the following:

Although not conclusive, the figures suggest that for those workers who remain on the payroll, i.e., who can maintain the minimum production standards, there is no clear relationship between age and production.

An interesting experiment in the field of older worker productivity was reported by Kinsley R. Smith in the Journal of Applied Psychology of June 1938. Smith conducted an experiment among 155 men divided into approximately equal age groups centered about the ages 20, 30, 40 and 50. *** The 50 year old group scored 86.5% of the thirty year old group ***. Also of importance was the finding that 15% of the fifty year old men were equal to or superior to the median thirty year old man in productivity. This latter finding seems to emphasize *** that all persons at the same chronological age do not possess the same physiological characteristics, and so, many older workers may possess superior physical abilities to those who are considerably younger than they are." 10/

Several studies relating to the productivity of older workers have produced data concerning the productivity of workers age 65 and older:

(a) In the early 1950's, the Bureau of Business Management of the University of Illinois conducted a series of three surveys on the effectiveness of older industrial, retailing, office, and managerial personnel. The surveys covered 3,077 personnel age 60 and older in 81 organizations. Relying on the opinions of their immediate supervisors, information was obtained relating to overall performance, absenteeism, dependability, judgement, work quality, work volume, and getting along with others. With little variation among the 60-64, 65-69, 70-74, and 75 and older groups, the older personnel were reported on average to have less absenteeism, to be more dependable, to be about the same with regard to judgement, about the same on work quality, and on work volume, and about the same in getting along with others. Sixty-nine percent of the employees covered were reported as not having any apparent age-connected weaknesses. 11/

(b) The results of three BLS surveys conducted in 1957-1961 were reported in the March 1964 Monthly Labor Review as follows:

"A comparison of the three studies made so far by the Bureau indicates that where physical effort is required, such as in the factory work, there is a slight decrease in productivity in advancing age groups after age 45 and that this decrease becomes substantial after age 65.

"In more sedentary work (such as office work) and in occupations with limited physical requirements (such as mail sorting), there is little, if any, decline in performance to age 60 and only a minor decline to age 65. In the *** office worker study, the oldest age group--65 and over--actually had the highest performance record. Among mail sorters there was a decline in production in the age group 65 and over. The averages for the two groups of 60 to 64 and 65 and over were 97.4 and 93.3, respectively.

"The proportion of workers in all age groups that performed above the average indicates the need for individual evaluation of workers. High consistency of performance among older age groups may be an important factor for employers to consider in hiring for operations requiring a constant flow of work." 12/

(c) As reported by McFarland in Industrial Gerontology:

"A study of bus drivers in the London Transport System, relating age and length of experience with the company to accidents found the safest group (with the lowest average number of accidents in a year) to be 60-64.

* * * * *

"Four hundred and fifty drivers over 65 had an accident rate strikingly similar to that of the 60-64 group." 13/

(d) A 1972 survey of 40 State agencies in New York State compared workers over and under age 65 with regard to absenteeism, punctuality, on-the-job accidents, and overall job performance. Of the 40 agencies, 33 with workers over 65 returned questionnaires covering a total of 132,316 employees. They had 3,707 employees between age 65 and 70 (the State's mandatory retirement age for its employees). In announcing the results of the survey, the State Commissioner of Human Rights indicated that the job performance of the workers over age 65 was "about equal to and sometimes noticeably better than younger workers." 14/

Somewhat anecdotal information is available concerning the experience of the Bankers Trust and Casualty Company and the Texas Refinery Corporation in employing people beyond age 65.

(a) The following comments were made in a statement presented by the Bankers Trust and Casualty Company to the Select Committee on Aging of the U.S. House of Representatives in a hearing on March 16, 1977. The statement described the company's experience with a noncompulsory retirement program:

"We feel our senior citizens *** are valuable in an intangible way. They add tremendously to the personality of the company. They preserve the continuity and give a feeling of stability and permanence. *** This distinction generates loyalty--not only among the older employees, but with the younger employees as well.

* * * * *

"It takes a little longer to train an older or handicapped person to perform a particular job with maximum efficiency, but once trained, they are more dependable, have better attendance records, stay on the job longer, and do as much work as the younger or so-called normal element."

* * * * *

"In analyzing the needs of our various employee groups we have found that elderly employees are really not so different than any other employee group. Of prime importance is that each employee should be treated as an individual, recognizing the employees' unique abilities, ambitions and vitality.

* * * * *

"One final question concerns the older employee who can no longer do the job. Some companies see forced retirement as the means to avoid this problem. At Bankers we see this as a problem which should be handled on an individual basis. When employees can no longer handle their present job, we consider them for other more appropriate positions. If there is nothing suitable we might have to retire the employee. However, it is very rare when this problem comes up.

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"It seems that the older employee is among the first to realize when the job is suffering. Usually the employee will seek a voluntary retirement about this time. Their decision is motivated by a combination of pride, regard for fellow workers and regard for the company, as well as the promise of alternative income through our pension plan and social security benefits." 15/

(b) The following information concerning Texas Refinery Corporation experience appeared in an article entitled "The Sizzling Sixties" in the June 1975 issue of Manpower magazine which focused on aging and productivity:

"Texas Refinery Corporation (TRC) *** now has 300 to 400 employees over 60 years of age.

* * * * *

"These employees belong to The Sizzling Sixties--a unique sponsored club established by its President Ray Baird ***. The average age in the club is 70; some members are over 80.

* * * * *

"TRC, based in Fort Worth, Texas, is a manufacturer and worldwide distributor of roofing materials and wall coverings.

* * * * *

"To market its wares, TRC has hired older workers who have been, in many cases, forced to retire from other employment. The arrangement has been a success for both the company and the workers.

* * * * *

"[According to TRC President and Board Chairman Adlai Pate, Jr.,] 'We've found from experience that senior citizen property owners relate better to older salespeople.'

"TRC salespeople, who work on a commission basis, are of all ages; but the highest sales averages are turned in by salespeople over 60, who make up 20 percent of the company's sales force. The folksy, low-key approach which many of them use seems to work especially well.

* * * * *

"Many members of The Sizzling Sixties work full-time.

* * * * *

"In the opinion of Jack Brooks, TRC Sales Manager, the company's senior citizen salespeople 'are usually more dependable *** they are more inclined to stay *** and are easier to work with'." 16/

(c) With regard to the employment of law school faculty, Industrial Gerontology has reported the following item of interest:

"A THIRD OF FACULTY OVER 65

"Hastings College, the law school of the University of California in San Francisco, is unique in searching the country for qualified law professors about to retire and offering them teaching positions at full salary for as long as they wish at Hastings. A third of Hastings' faculty is now over 65, with a number who are teaching well into their eighties.

"Hastings began the program during World War II because of a shortage [of teachers] in the legal profession. The program has been such a success that it has continued now for 30 years." 17/

In 1960, Consolidated Edison of New York reported on the effects of raising their mandatory retirement age for men from 65 to 68. They reported that the company had determined that about two-thirds of the male employees who reached normal retirement age in 1958 and 1959 were considered effective and satisfactory employees and were allowed to continue working, and about half of that group continued working beyond age 65. They further indicated:

"We also believe that a very high percentage of the individuals who have elected to continue with us would not have found any other work if we had required their retirement at the prior normal retirement ages. So a third of all of them and a half of those able, continue[d] to be producers, better consumers and taxpayers for a longer period." 18/

Con Edison also noted reduction of pension costs as a favorable aspect of raising their mandatory retirement age.

Several additional points are significant in relation to the issue of maintaining productivity:

(a) Findings in a recent Harris Poll indicate that:

"Difficulties in adopting flexible retirement ages as opposed to a fixed retirement age have probably been over-emphasized in the public's mind. This seems to be indicated by the fact that only 37 percent of those 18-64 with responsibility for hiring and firing felt it makes sense to have a fixed retirement age for everyone. They are the people who could be expected to be proportionately more in favor of fixed retirement ages because of administrative simplicity." 19/

(b) As noted by Dr. Arthur S. Flemming:

"Certainly a manager would have to make some difficult decisions without compulsory retirement but a good manager should always be making those kinds of decisions as he tries to raise the quality of his workforce. *** While hiring always involves some guesswork, termination can be based on actual performance on the job." 20/

(c) Professor Irvin Sobel, Chairman of the Economics Department at Florida State University, has pointed out that:

"In most jobs, the human capital acquired through experience is highly specialized to the firm, industry or even the process in which this experience

was acquired. This experience is largely non-transferable to other employers, industries or fields of endeavor. Thus, displacement from a long-tenure job generally means that the older worker has suffered a substantial and, even, massive loss in his stock of human capital." 21/

Footnotes to Appendix A

1. U.S. Senate, Senate Committee on Human Resources, Labor Subcommittee, Testimony of Albert E. Gunn on Senate Bills to Amend the Age Discrimination in Employment Act of 1967 (July 27, 1977). (See also American Medical Association, Retirement: A Medical Philosophy and Approach, Report of the Committee on Aging (Chicago: 1972).
2. James D. Manney, Jr., Aging in American Society: An Examination of Concepts and Issues (Ann Arbor: The Institute of Gerontology, University of Michigan - Wayne State University and Program of Continuing Education in the Human Services, University of Michigan School of Social Work, 1975).
3. Alan T. Welford, Aging and Human Skill (Glasgow: For the Trustees of the Nuffield Foundation by the Oxford University Press, 1958).
4. Russel F. Green, "Age, intelligence and learning," Industrial Gerontology (Number 12, Winter 1972, pp. 29-40).
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7. Matt Clark and Mariana Gonnell, "The Graying of America," Newsweek (February 28, 1977, pp. 50-65).
8. Alex Comfort, A Good Age (New York: Crown Publishers, 1976).
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14. "Survey of State Agencies Concerning the Employment of Older Workers" (Division of Human Rights, State of New York, September 1972).
15. U.S. House of Representatives, Select Committee on Aging, Statement of Bankers Trust and Casualty Company, March 16, 1977.
16. Dorothy Winter, "The Sizzling Sixties," Manpower (June 1975, pp. 2-3).
17. "A Third of Faculty Over 65," Industrial Gerontology (Spring 1977, p. 146). Quoted from AARP News Bulletin, November 1976.
18. Dwight S. Sargent. "Same Facts After Two Years' Experience Under A Plan Where The Employees Have a Free Choice To Retire at the Old Retirement Ages or to Continue Working," Report Presented at the National Health Council Forum (Miami Beach, Florida, March 14-16, 1960).
19. Elizabeth L. Meier, "Over 65: Expectations and Realities of Work and Retirement," Industrial Gerontology (Spring 1975, p. 102).
20. Harvey D. Shapiro, "Do Not Go Gently...", New York Times Magazine (February 6, 1977).
21. Irvin Sobel, "Older Workers Utilization Patterns: Human Capital Approach," Industrial Gerontology (Spring 1972, p. 8).

APP. B

Appendix B

Trends in the Labor Force Participation of Older Workers

One important aspect of analyzing the advisability of prohibiting mandatory retirement until age 70 is an evaluation of the desires of older citizens towards continued labor force participation. Unfortunately it is difficult to gauge the labor supply response of workers by direct means. Many ideas about older workers' sentiments have been raised, both anecdotal and based on survey data. One of the most comprehensive surveys, based on data collected by Louis Harris and Associates and compiled by the National Council on Aging (NCOA), indicates that 37% of the older public who are retired said they did not retire by choice but were forced to. ^{1/} The same survey states that while 15% of the unemployed or retired would like to go back to work, a full 20% would consider working at their old jobs or a new, suitable job.

Such judgmental evidence, however, is always difficult to interpret. First, there are reasons why respondents might try to answer such questions in an "appropriate" manner. Second, both supply and demand factors always influence labor market outcomes. Older workers could have to leave the labor force because of mandatory provisions, discrimination or falling productivity, in addition to their own preferences. The proposed legislation attempts to allow workers a choice, but within the constraints of a nondiscriminatory meshing of supply and demand. One direct way of gaining insight into attitudes about retirement is through the data on the labor force participation of older workers. Four major factors contributing to labor force participation rates are: (a) withdrawal or reduced participation because of disabilities linked to health problems, including those occasioned by serious injuries, (b) mandatory retirement practices, (c) discriminatory employment practices, and (d) workers' desires, such as for retirement facilitated by improvements in the availability of pension benefits and social security income.

Table 1 shows the participation rates of workers 50 years of age and over at intervals from 1960 through 1976. Even in the last 16 years the decline in labor force participation has been dramatic. (The increase in rates for women in their 50's is a result of another remarkable trend, the increase in female participation.) Although in each year there is a sharp break in the rates at ages 65-69, reflecting the effect of mandatory provisions to some extent, the declines for all age groups are remarkable.

^{1/} Louis Harris and Associates, Inc., The Myth and Reality of Agency, (Study for the National Council on the Aging, July 1976).

These data strongly suggest that, in part, older workers are choosing to retire in greater numbers than before. Of course, it is not possible to attribute the fall to this factor alone, since sluggish economic conditions, perhaps aided by age discrimination and the prevalence of mandatory provisions, may also have some effect. Nevertheless, the combination of better pensions, the availability of Social Security, and early retirement provisions would seem to have made retirement a desirable option for many older people.

Table 1: LABOR FORCE PARTICIPATION OF OLDER WORKERS

<u>Age</u>	<u>Male</u>					<u>Female</u>				
	<u>1960</u>	<u>1965</u>	<u>1970</u>	<u>1975</u>	<u>1976</u>	<u>1960</u>	<u>1965</u>	<u>1970</u>	<u>1975</u>	<u>1976</u>
50-54	94.7	95.0	93.0	90.1	89.8	48.7	50.1	53.8	53.3	53.1
55-59	91.6	90.2	89.4	84.4	88.6	42.2	47.1	49.0	47.9	48.1
60-64	81.1	78.0	75.0	65.7	63.7	31.4	34.0	36.1	33.3	33.1
65-69	46.8	43.0	41.6	31.7	29.3	17.6	17.4	17.3	14.5	14.9
70 +	24.4	19.1	17.7	15.1	14.2	6.8	6.1	5.7	4.9	4.6

Source - Calculated from unpublished data from Department of Labor,
Bureau of Labor Statistics, Current Population Surveys.

APP. C

Appendix C

Mandatory Retirement

Data from two basic sources are available relating to the extent to which provisions for mandatory retirement on the basis of age exist in current employment practices.

Data from the September 1973 Employer Policies and Practices Survey conducted by the Bureau of Labor Statistics for the Employment Standards Administration in the Department of Labor indicate that: 1/

-- Mandatory retirement on the basis of age is applicable to approximately half of employment in the nonagricultural private sector. (Just over 31 million of the 63.4 million employees within the scope of the survey were covered by mandatory retirement age requirements under either employer policies or pension plan provisions.)

-- Approximately two-thirds of the employment subject to mandatory retirement on the basis of age is subject to such requirements under pension, profit-sharing or other retirement plans for retirement income.

-- Approximately one-third of the employment subject to mandatory retirement on the basis of age is a result of formal employer policies.

-- Approximately 85 percent of the employees to whom retirement on the basis of age would apply under both employer policies and under pension plans would be subject at age 65.

-- Mandatory retirement on the basis of age at ages beyond age 65 were stipulated for approximately 14 percent of the employees whose employment was subject to mandatory retirement on the basis of age.

The Bureau of Labor Statistics has recently completed an analysis of mandatory retirement provisions in pension plans in 1974. 2/ The study covered plans reported to the Department of Labor under the Welfare and Pension Plan Disclosure Act--having at least 26 active participants. Some 21 million workers were covered under such pension plans. The preliminary findings of the analysis indicate that:

-- 41 percent of covered workers were in plans with mandatory retirement provisions applicable at age 65 or later. Reflecting the fact that multi-employer plans rarely have mandatory provisions and are almost all negotiated by unions, higher percentages of workers in single employer plans, in

nonnegotiated plans, and in manufacturing were in plans with mandatory retirement provisions compared to multi-employer plans, negotiated plans, and in nonmanufacturing, respectively.

-- Plans with mandatory retirement provisions were scattered among all industries. In each of the nonmanufacturing industries except construction and transportation, at least 25 percent of the workers were in plans with compulsory retirement provisions.

-- Compulsory retirement provisions, which permit employers to retire workers reaching a specified age, were found in plans applicable to 34 percent of the workers covered in the study. Age 65 was applicable to 92 percent of the workers covered by a compulsory retirement provision, and age 68 to 6 percent of the workers covered by such provisions.

-- Automatic retirement provisions, which require workers to retire when they reach a specified age, were found in plans applicable to 14 percent of the workers covered in the study. Age 70 was specified for 24 percent the workers covered by such provisions, age 68 for 46 percent of such workers, and age 65 for 28 percent of such workers.

The BLS analysis of 1974 pension plans distinguishes what are designated as "forced early retirement provisions" from the "mandatory retirement provisions" described above. Forced early retirement provisions allow retirement at the employer's request before normal retirement age if certain minimum age and service requirements are met. The BLS preliminary findings with regard to such provisions indicate that:

-- Although few plans had mandatory retirement provisions effective before age 65, many plans had forced early retirement provisions.

-- Forced early retirement provisions were found in plans in only a few industries. In communications and public utilities industries forced early retirement provisions were applicable to 62 percent of the workers and usually contingent upon 25 or 30 years of service. Plans allowing forced early retirement of short-service workers with 10 years of service or less (with supplementation of regular early retirement benefits or payment of unreduced normal retirement benefits) were applicable primarily in automobile and farm equipment manufacturing industries.

-- Forced early retirement provisions were more frequently found in negotiated plans than in nonnegotiated ones.

While this information is important in depicting the framework of mandatory retirement requirements under pension plans and retirement policies of employers, widespread withdrawal from the labor force before age 65--which is to some extent encouraged by the availability of increasingly generous pension benefits--dilutes the practical importance of coverage under mandatory retirement provisions in pension plans and retirement policies (including mandatory retirement policies coupled with coverage under pension plan which do not stipulate a mandatory retirement age).

As relatively little research has been specifically directly focused on involuntary retirement per se, ambiguities in the definition of the terms "retirement" and "mandatory retirement" have not been dealt with in research that has been done with a bearing on this issue. This difficulty is evidenced in the following quotes from a recent Social Security Bulletin article and DOL's 1977 Annual Report on activities under the ADEA in 1976, respectively:

"....no single concept or measure of retirement is accepted, either by social gerontologists or policymakers. In fact, what measure is used normally depends on either the issue under consideration or the available data. It may relate to the extent or continuity of work or earnings--or the lack thereof--to the termination of a specific career (in the Armed Forces, for example), to receipt of a retirement pension (regardless of age, health, or continuity of employment), to an individual's perception of his status, or to some combination of these factors. Thus, such apparently simple questions as 'How many workers retired last year?' or 'How many retirees are there in the United States?' cannot be answered directly." 3/

"Although much has been written on retirement, many facets still are unknown. For example, how many people are involuntarily retired in the United States between the ages of 40 and 65? Are they really "involuntary retired" or are they "voluntary retirements?" To complicate matters further, it is often not feasible to obtain recent retiree lists from employers to study involuntary retirement because of possible legal complications, or because the recordkeeping systems of some employers do not provide for the ready retrieval of such data." 4/

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FORCED RETIREMENT

Private pension plans, especially those for large groups of workers, frequently have forced retirement provisions. This preliminary finding is based on a recently completed Bureau of Labor Statistics analysis of defined benefit pension plans that were reported to the Department of Labor in 1974. Over 40 percent of the covered workers were in plans with mandatory retirement provisions (compulsory and automatic) applicable at age 65 or later, and 10 percent in plans that provide forced early retirement (at the employer's request) before age 65. (Table 1.)

Mandatory retirement provisions specify the compulsory retirement age at which an employer can force an employee to retire, or the automatic retirement age beyond which the employer cannot retain the employee, or both. While automatic retirement can never be delayed, some plans prohibit the compulsory retirement of workers with less than a specified number of years of credited plan service. (Table 2.)

Mandatory Retirement

Mandatory retirement provisions were less common in plans negotiated by unions than in plans that were not. Over 50 percent of the workers in nonnegotiated plans were covered by such a provision as compared to less than 40 percent of those under negotiated plans. To some extent, this difference reflects the fact that nearly all multiemployer plans, which rarely have mandatory provisions, are negotiated.

Plans with mandatory retirement provisions were scattered among all industries. (Table 3.) Because these provisions are more frequently found in single employer plans than in multiemployer plans, they cover a larger proportion of workers in manufacturing industries, where single employer plans prevail, than in nonmanufacturing, where multiemployer plans are more prevalent. Almost 40 percent of the covered workers in manufacturing, as compared to almost 30 percent in nonmanufacturing were in plans with compulsory retirement provisions.

In each of the nonmanufacturing industries except construction and transportation, however, at least 25 percent of the covered workers were in this type of plan. The high proportion of workers in communications and public utilities is accounted for by the Bell System plans which have compulsory retirement at age 65. Automatic retirement provisions, on the other hand, were most prevalent in finance, insurance, and real estate.

Compulsory retirement ages were found in plans applicable to over one out of three of the workers participating in the defined benefit pension plans studied. Age 65 was the most common age specified, applicable to over 90 percent of the workers covered by a compulsory retirement provision. (Table 4.)

The most common automatic retirement age was 68, which was applicable to almost half of the workers in plans with automatic retirement provisions. Most frequently, plans with both compulsory and automatic retirement specified age 65 as the compulsory age and 68 or 70 as the automatic age.

Forced Early Retirement

Although few plans had a mandatory retirement provision effective before age 65, many plans had forced early retirement provisions under which an employer can compel a worker to retire before that age. These provisions allow retirement at the employer's request before normal retirement age--usually age 65 only if certain minimum age and service requirements are met. Usually, long service was required. Over three out of five of the participants in plans with forced early retirement are in plans authorizing involuntary retirement of workers age 50 with 25 years of service as well as younger workers with 30 years of service. (Table 5.) However, some plans allow the forced early retirement of short-service workers with 10 years of service or less, if the regular early retirement benefit is supplemented, or if unreduced normal retirement benefits are paid.

Unlike mandatory retirement provisions, forced early retirement provisions were found in plans of only a few industries. Those applicable to long-service workers were primarily in the communications and public utilities industries; those for short-service workers, in automobile and farm equipment manufacturing industries.

Multiemployer pension plans, prevalent in nonmanufacturing industries, but not in manufacturing industries, rarely included forced early retirement provisions. Most workers in plans with this type of provision were in plans financed solely by employers.

Unlike mandatory retirement provisions, forced early retirement provisions were more frequently found in negotiated plans than in nonnegotiated ones.

Technical Note

The preliminary findings reported in this release are the results of the Bureau's study based on a probability sample of employment-related basic defined benefit pension plans, each covering at least 26 active workers in the private sector of the economy, whose administrators reported to the Department of Labor in accordance with the Welfare and Pension Plan Disclosure Act of 1959, as amended. Defined benefit plans exclude deferred profit sharing plans and defined contribution (individual account) plans. The provisions analyzed were those in effect on September 1, 1974, immediately before the Employee Retirement Income Security Act was signed into law. Excluded from the analysis are 55 plans, representing 2.3 million workers, for which descriptions of plan provisions were not on file with the Department at the time of the study. The study is limited to basic plans and excludes supplemental pension plans that provide workers additional benefits, usually on a contributory or employee-pays-full-cost basis. The forced retirement provisions of the supplemental plans were rarely, if ever, more restrictive than the provisions of basic plans. The collection of these data was partly financed by the Labor-Management Services Administration.

**Table 1. Forced Retirement Provisions in Basic Defined Benefit Pension Plans,
by Type of Provision and Bargaining Status of Plans
September 1, 1974 ^{1/}**

Type of provision	Bargaining status (workers in millions)											
	Total			Negotiated ^{2/}			Nonnegotiated ^{2/}			Not determinable		
	No. of workers	Percent	Percent	No. of workers	Percent	Percent	No. of workers	Percent	Percent	No. of workers	Percent	Percent
All plans studied	20.6	100		15.1	100		5.2	100		.3	100	
Mandatory retirement ^{3/}	8.5	41	100	5.6	37	100	2.8	54	100	.1	35	100
Compulsory retirement only	5.8	28	67	3.7	24	66	2.0	38	71	.1	28	79
Automatic retirement only	1.7	8	20	1.3	8	23	.4	8	16	*	6	16
Compulsory and automatic retirement	1.0	5	12	.7	4	12	.4	7	14	*	2	5
Forced early retirement ^{4/}	2.0	10	100	1.9	10	100	.2	4	100	---	---	---

^{1/} Preliminary data based on an analysis of a probability sample of private defined benefit pension plans representing the universe of private plans that reported to the Department of Labor under the Welfare and Pension Plan Disclosure Act of 1959, as amended, each with at least 26 active participants during the plan year ending in 1974. Excluded from this study are plans covering about 2.3 million workers, that could not be analyzed because plan documents were not available in the Department's files. Number of workers is the estimated number of active worker participants (excludes retirees) in 1974.

^{2/} For this study, negotiated plans include (1) those established for the first time through collective bargaining and (2) those originally established by either employer or union but later brought within the scope of collective bargaining for some but not necessarily all plan participants. Nonnegotiated plans are plans unilaterally established, controlled and administered by a company or union.

^{3/} Compulsory retirement provisions permit employers to retire workers reaching a specified age. Automatic retirement provisions require workers to retire when they reach a specified age.

^{4/} Forced early retirement provisions permit employers to retire workers before normal retirement age.

Note: Because of rounding, sums of individual items may not equal totals.

* Less than 100,000 workers.

Table 2. Types of Mandatory Retirement Provisions in Basic Defined Benefit Pension Plans
by Bargaining Status of Plans with Such Provisions
September 1, 1974 ^{1/}

Type of mandatory retirement provision	Bargaining status (workers in millions)							
	Total		Negotiated ^{2/}		Nonnegotiated ^{2/}		Not Determinable	
	No. of workers	Percent	No. of workers	Percent	No. of workers	Percent	No. of workers	Percent
All plans studied	20.6	100	15.1	73	5.2	25	.3	*
Total with mandatory retirement ^{3/}	8.5	100	5.6	66	2.8	33	.1	1
Compulsory retirement only	5.8	100	3.7	64	2.0	34	.1	1
No minimum service requirement	5.2	100	3.3	62	1.9	36	.1	2
Minimum service requirement	.5	100	.4	88	.1	12	---	---
Automatic retirement only	1.7	100	1.3	74	.4	25	*	1
Automatic and compulsory	1.0	100	.7	63	.4	37	*	*
Compulsory-no minimum service requirement	.9	100	.6	67	.3	32	*	1
Compulsory-minimum service requirement	.2	100	.1	40	.1	60	---	---

^{1/} See Table 1, footnote 1

^{2/} See Table 1, footnote 2

^{3/} See Table 1, footnote 3

Note: Because of rounding, sums of individual items may not equal totals.

* Less than 100,000 workers or 1 percent, whichever is applicable.

Table 3. Forced Retirement Provisions in Defined Benefit Pension Plans
in Each Major Industry Division, by Type of Provision,
September 1, 1974 ^{1/}

Industry	Workers covered		Percent of workers in plans with specified type of forced retire- ment provision ^{2/}		
	Number (millions)	Percent	Compulsory	Automatic	Early
All industries	20.6	100	34	14	9
Manufacturing	10.7	100	39	21	10
Nonmanufacturing	10.0	100	29	6	8
Mining	.3	100	28	13	---
Construction	2.8	100	3	1	---
Transportation	1.6	100	11	3	---
Communication and Public Utilities	1.3	100	74	10	62
Wholesale and Retail	1.6	100	30	7	1
Finance, Insurance and Real Estate	.9	100	64	25	2
Services	1.4	100	37	2	---
Other	*	100	32	---	---

^{1/} See Table 1, footnote 1

^{2/} See Table 2, footnotes 3 and 4

Note: Because of rounding, sums of individual items may not equal totals

Table 4. Compulsory and Automatic Retirement Ages in Basic
Defined Benefit Pension Plans With Mandatory Retirement Provisions
September 1, 1974 1/

Age	Workers <u>1/</u>		
	Number (millions)	Percent	Percent
Total	20.6	100	
Total with mandatory retirement <u>2/</u>	8.5	41	
Compulsory retirement age	<u>3/ 6.8</u>	<u>34</u>	<u>100</u>
65	6.2	30	92
68	.4	2	6
70	.1	*	1
Other	*	*	1
Automatic retirement age	<u>2.7</u>	<u>14</u>	<u>100</u>
65	.8	4	28
68	1.3	6	46
70	.7	3	24
Other	.1	*	3

1/ See Table 1, footnote 1

2/ See Table 1, footnote 3

3/ Includes 700,000 workers in plans that permit workers to be retired at a specified age provided they have a minimum amount of service. The compulsory retirement age for about 75 percent of these workers was age 65.

Note: Because of rounding, sums of individual items may not equal totals.

* Less than 100,000 workers or less than 1 percent, whichever is applicable.

**Table 5. Forced Early Retirement Provisions in Basic Defined Benefit Plans
by Type of Benefit Provided, Minimum Age and Service Eligibility Requirements,
and Bargaining Status of Plan, September 1, 1974 1/**

Type of benefit and minimum age and service requirements	Covered workers		Negotiated 2/		Nonnegotiated 2/	
	Number (mil.)	Percent	No. of workers (mil.)	Percent	No. of workers (mil.)	Percent
All plans						
Studied	20.6	100	15.1		5.2	
With forced early retirement provision <u>3/</u>	2.0	10	1.9	100	.2	100
Benefit is regular early retirement benefit	1.3	6	1.3	68	.1	35
Any age with 30 years of service <u>or</u> age 50 with 25 years of service	1.1	5	1.1	57	---	---
Other	.2	1	.1	6	.1	35
Benefit is greater than regular early retirement benefit	.7	3	.6	32	.1	65
Any age regardless of service	.2	1	.1	8	*	15
Age 55 with 10 years of service	.5	2	.4	19	.1	39
Other	.1	1	.1	5	*	11

1/ See Table 1, footnote 1

2/ See Table 1, footnote 2

3/ See Table 1, footnote 4

Note: Because of rounding, sums of individual items may not equal totals

* Less than 100,000 workers.

Footnotes to Appendix C

1. Calculated from unpublished data, U.S. Department of Labor, Employment Standards Administration, from September 1973 Employer Policies and Practices Survey Conducted by the Bureau of Labor Statistics.
2. U.S. Department of Labor, "Forced Retirement" News (Bureau of Labor Statistics, July 19, 1977).
3. Lenore E. Bixby, "Retirement Patters in the United States: Research and Policy Interaction" Social Security Bulletin (August 1976, p. 3).
4. U.S. Department of Labor, Employment Standards Administration, Age Discrimination in Employment Act of 1967 (Report Submitted to Congress under Section 13 of the Act, 1977).

APP. D

Appendix D

The Potential Labor Market Impact of Prohibiting Mandatory Retirement Before Age 70

The labor market impact of legislation prohibiting mandatory retirement before age 70 can be examined by estimating the number of persons who would have wished to continue working had they not been subject to mandatory retirement. Two methods have been used to estimate the number of workers adversely affected by current practices. The calculations estimate the numbers of workers and the impact on the labor force for 1976.

The estimates are designed to identify three groups of dissatisfied older workers: (1) workers out of the labor force who would work in the absence of mandatory retirement before age 70; (2) workers unemployed because of mandatory practices; and (3) those forced to work part-time rather than full-time.

Two approaches are used to estimate the number of workers not in the labor force who would have stayed on their jobs had it not been for mandatory retirement. The first method relies on the responses of mandatory retirees surveyed in the Social Security Administration's Survey of Newly Entitled Beneficiaries (SNEB). They were questioned as to whether they would have preferred to continue working. The second method is based on Current Population Survey (CPS) data relating to persons who want jobs but are not in the labor force.

The findings of this analysis show that using the SNEB method 1/ 131,000 men and 41,000 women from 65 and 69 years of age would have been in the labor force were mandatory retirement postponed until age 70 (see Table 2). The findings on additional labor force participation using the CPS method indicate that 80,000 men and 45,000 women would have stayed in the labor force were it not for mandatory retirement. In addition, a maximum of 36,000 men age 65-69 are estimated to be in the labor force as unemployed or working nonvoluntary part-time schedules because of mandatory retirement. Thus, the total number of those age 65-69 suffering a loss in labor force status as a result of mandatory retirement (those not in the labor force, unemployed, or working part-time) using the SNEB method is estimated at 167,000 men and 41,000 women. The CPS method, on the other hand, produces only 116,000 men and 45,000 women.

1/ See Technical Note in this Appendix for explanation of methodology.

The SNEB method produced 44 percent more dissatisfied men than the CPS method (although the number of women predicted is virtually identical). The SNEB data are collected at the point of retirement while the CPS surveys individuals at various dates. There is other evidence that perceptions of the desire to work are greatest at retirement, but actual performance and interest in working is less in subsequent years. For instance, the Harris survey data used by NCOA (see Appendix B) show over 85 percent as many persons forced to retire as retirees who would be willing to go back to their old job or a new suitable one.

Several factors are not sorted out in the analysis. The direction of the net effect of these factors is uncertain. On the one hand, the estimates cannot include those workers who were retired against their will, but who at the time of the survey had been able to find other full-time jobs. On the other hand, the estimates do include some workers who would undoubtedly have been dismissed from their jobs for cause had they not been subject to mandatory retirement. Finally, the estimates also include a number of voluntarily retired workers, who by the time of the survey wished to return to the labor force for part-time or even full-time work.

It is difficult to choose between the two options presented. The source of divergence in the two estimates appears to stem from the time period at which the retirees were interviewed rather than from the method of calculation. On the one hand, people at mandatory retirement may over-estimate their true work commitment and willingness to stay on the job. Thus, the CPS data would show a more accurate picture of what individuals actually end up doing, and can be argued to be more accurate. On the other hand, retirement experience may actually reduce the desire to rejoin the labor force. Thus, if workers were not subject to mandatory retirement, they might stay in the labor force in greater numbers than revealed by later post-retirement data. With no other evidence, it would seem that the truth would lie in between. Thus, the two estimates presented represent a range of expected impact.

In 1976, if mandatory retirement were prohibited for workers under 70 years of age, the male labor force would have been larger by only one-tenth to two-tenths of a percent (0.1% to 0.2%) and the female labor force by one-tenth of a percent (0.1%). This represents an extremely small labor force impact which would not be expected to create major dislocations in other age brackets of the labor force. In point of fact, the effect would be extremely gradual if the legislation were enacted, with only part of one cohort of 65 year olds voluntarily remaining in the labor force each year over a five-year period.

Table 2: Total Dissatisfied Employees

(A) SNEB Method

	<u>Male</u>	<u>Female</u>
1. Out of Labor Force	131 thousand	41 thousand
2. Unemployed	22 thousand	4 thousand
3. Part-Time	<u>14 thousand</u>	<u>-4 thousand</u>
TOTAL	167 thousand	41 thousand

(B) CPS Method

1. Out of Labor Force	80 thousand	45 thousand
2. Unemployed	22 thousand	4 thousand
3. Part-Time	<u>14 thousand</u>	<u>-4 thousand</u>
TOTAL	116 thousand	45 thousand

Source: Tables 3-5.

Technical Note

Calculation of Additional Labor Force Participation

Two estimates are presented in this Appendix on the number of workers adversely affected by current mandatory retirement ages. In each case three groups are identified: (1) workers out of the labor force who would have worked if there had been no mandatory retirement before age 70; (2) workers unemployed because of mandatory practices; and (3) those forced to work part-time rather than full-time. The first method relies on data from the Social Security Administration's Survey of Newly Entitled Beneficiaries (SNEB) along with 1976 population and labor force data. The second only uses data from the 1976 Current Population Survey (CPS). The alternative sources, SNEB and CPS, are only used to develop estimates for (1) workers currently out of the labor force. Both estimates are identical with respect to (2) unemployed workers and (3) part-time workers, and are derived from 1976 CPS data.

Workers Out of the Labor Force

SNEB Method

The SNEB method first calculates the hypothetical difference in numbers of 65 year old workers based on different participation rates for various age groups. Decreases in participation for different ages are attributed to retirements. Percentages from the SNEB data are applied to the number of retirees to estimate the number of individuals who retire because of mandatory provisions. Then the number of workers who preferred not to retire is calculated. The percentage increase in the age 65 labor force is hypothesized to apply to all workers between 65 and 69 to get a final estimate of workers who would be in the labor force had it not been for mandatory retirement. See Table 3 for a full derivation of the calculations.

CPS Method

The CPS method uses the CPS data on discouraged workers--those who are out of the labor force but say they want to work. It should be noted that the response to this question tends to be an overestimate because all responses "yes" or "maybe" are included in the category "want to work." The data include those workers who want to work but are in school, have ill-health, think it is impossible to get a job, and all others. For men (but not women) the data include those with family responsibilities. The

object is to count all workers who may be out of the labor force and then estimate the impact of mandatory retirement. Of course, there may be some workers included who retire voluntarily and want to work elsewhere.

Unfortunately the responses include all workers 65 and over. In order to find those between 65 and 69, the workers were arbitrarily divided according to the percentage of the labor force between 65 and 69 out of all workers over 65.

The number of retirees who would like to work is derived as the difference between hypothetical discouraged workers were mandatory retirement not prevalent before age 70 and the total number of discouraged workers age 65 to 69. Rates prevalent for groups 55 to 59 (pre-mandatory years) are applied to the 65-69 year old labor force to arrive at hypothetical discouraged workers. This procedure is performed to exclude those workers who may be discouraged for reasons other than mandatory retirement. The difference between actual and hypothetical estimates represents those mandatory retirees who would like to work but are out of the labor force. See Table 4 for a full derivation of these calculations.

Unemployed and Part-Time Workers

The number of unemployed workers stemming from mandatory retirement is calculated by subtracting the number of hypothetical unemployed workers at unemployment rates for 55-59 year olds from the actual numbers of unemployed workers age 65-69. See Table 5 for calculations.

The number of non-voluntary part-time workers represents the difference between estimated actual workers on non-voluntary part-time schedules aged 65-69 and hypothetical workers at rates of part-time employment applicable to the 55-59 age group. Part-time workers aged 65-69 are estimated by applying their percentage of total employment out of those 65 and over to part-time workers 65 and over. See Table 5 for a full derivation of the calculations.

Table 3 SNEB Method: Additional Workers in
the Labor Force--Mandatory Retirement at Age 70

<u>Initial Data-1976 CPS and 1968-70 SNEB</u>		Male	Female
(1)	Population age 65	807thous.	1043thous.
(2)	Labor force age 65	295thous.	199thous.
(3)	Labor force age 65-69	1048thous.	677thous.
(4)	Participation rate age 62	61.81%	33.50%
(5)	Participation rate age 64	50.31%	23.84%
(6)	Participation rate age 65	36.56%	19.08%
(7)	% retired through mandatory provisions age 65	52%	34%
(8)	% who did not want to retire mandatorily age 65	56%	80%
(9)	% retired through mandatory provisions age 63-64	10%	12%
(10)	% who did not want to retire mandatorily age 63-64	50%	25%
<u>Calculations</u>			
(11)	Retirees between ages 64 & 65 [lines (1)x((3)-(6))]	110 thous.	50 thous
(12)	Mandatory retirees who would not not retired at age 65 [lines (11)x(7)x(8)]	32 thous.	9 thous
(13)	Retirees between ages 63 & 64 [lines (1)x((4)-(5))]	93 thous.	101 thous
(14)	Mandatory retirees who would not have retired at ages 63 & 64 [lines (13)x(9)x(10)]	5 thous.	3 thous

	Male	Female
15) Percentage increase in labor force of 65 year olds if mandatory retirees who wish to work are included [lines $((12)+(14)+(2))/(2)-1.0$]	12.5%	6.0%
16) Additional workers 65-69 who would be working if mandatory retirement were up to age 70 [lines $((3) \times (1.0+(15)))-(3)$]	131 thous	41 thous

Sources: (1) - (6); Calculated from Department of Labor, Bureau of Labor Statistics, Current Population Survey, 1976 annual averages: (7-10); Derived from Department of Health, Education and Welfare, Social Security Administration, Reaching Retirement Age, 1976.

Table 4: CPS Method: Additional Workers in
the Labor Force--Mandatory Retirement
at Age 70

	Males	Females
(1) Workers out of the labor force who want a job-age 65+	168 thous.	124 thous.
(2) % of over 65 labor force age 65-69	58%	64%
(3) Estimated workers 65-69 years who want a job [lines (1)x(2)]	97 thous.	79 tho
(4) Civilian labor force age 65-69	1048 thous.	677 tho
(5) Workers who want a job as % of labor force		
(a) age 55-59	1.6%	5.1%
(b) age 60-64	2.8%	5.5%
(c) age 65+	9.3%	11.7%
(6) Workers who want a job 65-69 years at 55-59 year rates [lines (4)x(5a)]	17 thous.	34 thous
(7) Retirees who want jobs [lines (3)- (6)]	80 thous.	45 thous

Source: Calculated from Department of Labor, Bureau of Labor
Statistics, Current Population Survey, 1976 annual
averages.

Table 5: Workers Dissatisfied Because of
Mandatory Provisions
(Unemployed and Part-Time)

	Male	Female
(1) Unemployed workers aged 65-69	64 thous.	38 thous.
(2) Labor force aged 65-69	1048 thous.	677 thous.
(3) Unemployment rate age 55-59	4.0%	5.0%
(4) Hypothetical unemployed [lines (3)x(2)]	42 thous.	34 thous.
(5) Additional unemployed retirees [lines (1)-(4)]	22	4 thous.
<hr/>		
(6) Non-voluntary part-time workers age 65 and over	64 thous	37 thous
(7) % of over 65 labor force aged 65-69	58%	64%
(8) Estimated non-voluntary part-time workers aged 65-69 [lines (6)x(7)]	37 thous.	24 thous.
(9) Part-time workers as a % of labor force aged 55-59	2.2%	4.1%
(10) Hypotehtical part-time [lines (2)x(9)]	23 thous.	28 thous.
(11) Additional part-time re- tirees [lines (8)-(10)]	14	-4

Source: Calculated from Department of Labor, Bureau of Labor

APP. E

Appendix E

The Effect on Employment by Occupation and Industry

Analysis of the percentages of workers in occupational and industrial groupings by age and sex helps to ascertain which industries and occupations have relatively higher retirement rates. In 1976 mining, construction, manufacturing, transportation and public utilities, and public administration showed declines in the relative share of employment for workers between 45-54 years of age and those 65 and over (see Table 6). Concurrently, trade, finance and insurance and services gained. Relatively the same pattern held for women although the finance and insurance sector share fell over the relevant age groups.

These data can be placed in perspective in view of the prevalence of mandatory retirement provisions by industrial grouping. According to 1969 SNEB data ^{1/}, compulsory retirement provisions are most common in manufacturing, transportation and public utilities, and in public administration. In the remaining industries, fewer than half the men and a third of the women reported pension coverage or compulsory retirement provisions. This study cited 65 as the most common mandatory age for the private sector.

Recent data released by the Bureau of Labor Statistics on pension plan coverage in 1974 ^{2/} seem to indicate relatively higher coverage by mandatory provisions for pension plans in communications and public utilities, finance and insurance, and manufacturing. Both the SNEB and the BLS studies lend support to the theory that those industries exhibiting relative declines in employment for workers 65 years of age and over are influenced by mandatory retirement requirements. This implies, of course, that increases in the labor force if mandatory retirement is prohibited until age 70, will affect those industries most strongly. Hence, the issue is raised whether such industries can absorb a large labor force without undue structural upheaval. Of course, the labor market impact will be eased insofar as the change is phased in over a period of years, as each cohort of 65 year olds faces the choice between work or retirement.

The potential impact of postponing mandatory retirement on various labor markets can be investigated to some extent by looking at data on unemployment by industry. The 1976 unemployment rates for transportation and public utilities, and finance

and insurance were 4.7 and 4.4 percent, respectively, far lower than the all industry rate of 7.7 percent (see Table 8). The 1976 unemployment rate in manufacturing at 7.9 percent was just above the all industry rate. Thus it might be concluded that this sector might have the most difficulty should mandatory retirement be delayed to age 70.. A quick calculation, however, shows that if older men now out of the labor force who would work in manufacturing were added in, the total male manufacturing labor force would only expand by three-tenths to one-half of a percent (0.3% to 0.5%). 3/

A similar analysis can be made of the occupational distribution of older workers. For men, the percentages of laborers, service workers, clerical workers and sales workers all rose gradually (see Table 7). The drop in the relative distribution of craft workers and operatives, however, was most striking. Craft workers made up 20.4% of the 60 and 64 years olds but only 11.4% of those over 65.

The pattern for women was completely different, however, with a larger percentage increase in the service sector and a pattern of declining employment for clerical workers and operatives. The operative category shows a particularly sharp drop between ages 60-64 and over 65, perhaps indicating to some extent the effect of mandatory retirement.

According to the SNEB survey 4/, professional and technical workers are most likely to have compulsory retirement and pension plan coverage. About half the men in such jobs were so covered. Around 30% of other white collar workers and skilled blue collar workers reported both pensions and mandatory retirement coverage. In each group about 5% of the men reported mandatory retirement coverage without a pension plan. Pension coverage without mandatory retirement was more common. Women in all occupations were much less likely to have pension coverage or mandatory retirement except women in the professional and technical category. The latter had coverage more similar to men.

The data show that the mandatory retirement age for professional and technical workers is often later than that of other workers. About one-third of the professional and technical workers reported mandatory retirement age of 70 or over, compared to about one-fifth of all other workers.

It does not appear that there would be a severe impact for the professional and technical labor market were mandatory retirement ages raised to 70. First, the decline in the proportion of such workers in the labor force is extremely gradual for both men and women. Second, the unemployment rate for these groups is considerably lower than average, and, thus, some expansion of the labor force would probably not seriously distress the unemployment situation for this occupational group.

It is true that the occupational distribution data show a significant drop in the proportion of skilled blue collar workers (craft workers and operatives) in the 65-69 age group. It might be thought this group would swell should mandatory retirement ages be raised. While the 1976 unemployment rate for craft workers at 6.9 percent was lower than the 7.7 percent average, that of operatives at 10.1 percent was higher. On the other hand, it is fairly well known that blue collar workers tend to opt for voluntary retirement to a greater extent than those in the professional and managerial occupations and in fact have been pressing for retirement at earlier ages after a specified number of years of service.

Table 6: Labor Force Distribution by Industry, Age and Sex
(1976 Annual Averages)

Age Industry	(MEN)				(WOMEN)			
	45-54	55-59	60-64	65 and over	45-54	55-59	60-64	65 and over
Mining	1.4%	1.5%	1.3%	0.8%	0.2%	0.1%	0.1%	0.1%
Con- struction	10.2%	9.4%	9.0%	7.6%	1.1%	0.7%	0.9%	1.2%
Manu- facturing	30.9%	31.2%	30.9%	13.1%	20.0%	20.8%	17.8%	8.3%
Trans- portation & Public Utilites	10.0%	9.9%	8.0%	4.1%	3.8%	2.9%	3.0%	1.0%
Trade	16.1%	16.6%	17.9%	25.7%	21.9%	21.6%	24.8%	29.0%
Finance & Insurance	4.5%	5.0%	6.2%	10.1%	6.6%	6.6%	5.8%	6.2%
Services	19.0%	18.4%	20.0%	32.8%	40.8%	42.2%	43.8%	50.7%
Public Admin- istration	7.4%	7.8%	6.7%	5.8%	5.4%	5.2%	4.1%	3.5%

Source: Calculated from unpublished data Department of Labor, Bureau of Labor Statistics, 1976 annual averages, Current Population Survey.

Table 7: Labor Force Distribution by Occupation, Age and Sex ^{1/}
(1976 annual averages)

Age Occupation	(MEN)					(WOMEN)			
	45-54	55-59	60-64	65 and over		45-54	55-59	60-64	65 and over
Professional & Technical	14.7%	12.5%	11.7%	12.6%		14.4%	13.3%	12.1%	18.5%
Managers	19.4%	18.4%	17.4%	15.9%		7.9%	7.5%	8.1%	8.3%
Sales	5.6%	6.1%	6.4%	8.8%		7.0%	7.4%	8.7%	8.3%
Clerical	5.9%	6.7%	6.4%	6.3%		33.4%	30.0%	26.8%	22.2%
Craft	22.5%	22.4%	20.4%	11.4%		1.8%	1.9%	1.9%	1.7%
Operatives	16.0%	15.8%	14.9%	8.0%		14.0%	14.3%	12.9%	7.4%
Laborers	4.9%	4.9%	5.4%	6.1%		0.8%	0.9%	0.9%	0.8%
Service	6.5%	7.8%	10.0%	14.0%		18.9%	22.6%	26.7%	33.1%

^{1/} Totals do not add to 100% because of rounding errors and the omission of farm workers.

Source: Calculated from unpublished data Department of Labor, Bureau of Labor Statistics, 1976 annual averages, Current Population Survey.

Table 8: Unemployment Rates by Industry
and Occupation
(1976 Annual Averages)

<u>Industry</u>	<u>Unemployment Rate</u>	<u>Occupation</u>	<u>Unemployment Rate</u>
Mining	4.7%	Professional & Technical	3.2%
Construction	14.4%	Managerial	3.1%
Manufacturing	7.9%	Sales	5.4%
Transportation and Public Utilities	4.7%	Clerical	6.4%
Trade	8.6%	Craft	6.9%
Finance and Insurance	4.4%	Operatives	10.1%
		Laborers	13.7%
Services	6.1%	Service	8.7%
All Industries	7.7%	All Occupations	7.7%

Source: Department of Labor, Employment and Training Administration,
Employment and Training Report of the President, Tables A-21
and A,22 , pages 171-172

Footnotes to Appendix E

1. U.S. Department of Health, Education, and Welfare, Social Security Administration, Reaching Retirement Age (1976).
2. U.S. Department of Labor, "Forced Retirement," News (Bureau of Labor Statistics, July 19, 1977).
3. This calculation was made by allocating to manufacturing 55.6% of all older workers (over 65) out of the labor force who desired to work. The percentage is based on that fraction of the difference in employment between 60-64 year olds and over 65 year olds stemming from the manufacturing sector.
4. U.S. Department of Health, Education, and Welfare, Social Security Administration, Reaching Retirement Age (1976).

Agency Comments on Research Paper

The comments by the agencies responding to the research paper are summarized below:

Comments in support of raising the upper age limit under the ADEA to 70

- Social benefits would be provided for older workers.
- The fiscal impact on the Social Security program would be favorable.
- It would not create any major problems and would be good strategy.
- There is no need for any mandatory retirement age.

Comments in opposition to raising the upper age limit under the ADEA to 70

- Hard data to support a change in the mandatory retirement age are not available.
- Affirmative action programs for women and minorities would be adversely affected.
- Youth unemployment and the Administration's youth measure would be impacted unfavorably.
- Productivity would potentially be affected adversely.
- Collective bargaining agreements should be exempted from any modification of the mandatory retirement age.

